

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No 6364 of 2021

Arising Out of PS. Case No.-112 Year-2020 Thana- GARDANIBAG District- Patna

RITESH KUMAR @ PINTU S/o Chandrika Prasad Resident of Sundari
Enclave Dhirachak, P.S.- Gardanibagh, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	M/s Anuj Kumar, Priyanka Singh, Advocates
For the State	:	Ms Pushpa Sinha, APP
For the Informant	:	M/s Soni Shrivastava, Ravi Bhardwaj, Advocates

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

6 **24-02-2021** Heard learned counsel for the petitioner, informant
and the learned APP for the State.

The petitioner seeks bail in Gardanibagh Police
Station (for brevity, *PS*) Case No 112 of 2020 dated 22.02.2020
instituted for the offence punishable under Sections 304B, 498A
of Indian Penal Code (for brevity, *IPC*).

Earlier, the prayer for bail on behalf of the petitioner
was rejected under order dated 12.10.2020 passed in Cr Misc
No 23559 of 2020 (Annexure 1).

Petitioner's counsel submits that the petitioner has
renewed his prayer for bail in view of certain new factors
subsequent to rejection of his prayer earlier on 12.10.2020.
Referring to the conclusive medical opinion as regards the



death of the victim, it is submitted that the cause of death has been found to be pulmonary edema. As per the various Medical Jurisprudence available, pulmonary edema can occur in case of natural death and need not be taken as an unnatural death. The body was released in favour of the family of the informant immediately. This factor also suggests that the death was natural. Referring to certain paragraphs of the supplementary affidavit, it is submitted that the cognizance under Section 304B of IPC is unsustainable.

The other submission is that child's statement, which has been recorded in the course of investigation, suggests the victim being subjected to assault in the vehicle which is highly improbable in view of the traffic condition. Injury on the left knee of the deceased was of much earlier origin as it has been found to be having "pus". Injury is on the left knee and could not have been caused during the car journey as the petitioner was sitting, at best, to the right of the victim as he was on the driver seat.

The learned counsel for the informant and the learned APP for the State have opposed the prayer for bail.

The parties, on going through the material during course of investigation, however, are not in a position to dispute



the fact that the same suggests the victim being taken to the Patna Medical College Hospital at somewhere around 2.30 am (22.02.2020) whereas the prosecution case is that the petitioner has dropped the victim (his own wife) in the informant's house in a serious condition at around 8.30 pm (21.02.2020). In the investigation, there is no material to support the allegation of poisoning. Petitioner, as per statement in the petition, bears no criminal antecedent and is in custody since 22.02.2020.

Considering the material in the course of investigation, which has been placed in the case diary after rejection of the petitioner's prayer for bail and the rival submission of the parties, prayer for bail is allowed. Let the petitioner, above named, be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Additional Chief Judicial Magistrate XIV, Patna in Gardanibagh PS Case No 112 of 2020 subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.



(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

Learned counsel for the petitioner is expected to honour his undertaking given in the instant proceedings today for depositing requisite Court fee and removing the defect (s), as pointed out, when called upon to do so.

(Madhuresh Prasad, J)

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