

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.2789 of 2021

Arising Out of PS. Case No.-112 Year-2015 Thana- BARACHATTI District- Gaya

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INDAL PASWAN SON OF ARJUN PASWAN RESIDENT OF VILLAGE -
MAKHRAUR, P.S. - BARACHATTI, DISTRICT - GAYA

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Anil Kumar Sinha, Advocate
		Mr. Sudhir Kumar Sinha, Advocate
For the Opposite Party/s :		Mr. Choubey Jawahar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 23-09-2021 Heard Mr. Anil Kumar Sinha, learned Advocate
for the petitioner and Mr. Choubey Jawahar, learned APP
for the State.

The petitioner seeks bail in anticipation of his arrest in connection with Barachatti P.S. Case No. 112 of 2015 dated 28.03.2015 instituted for the offences under Sections 302/34 of the Indian Penal Code.

It has been alleged in the FIR that the daughter of the informant was married to one Binod Yadav about 20 years ago. When no child was born out of the wedlock, another marriage was performed by aforesaid Binod Yadav. The daughter of the informant kept on shuttling between the house of the informant and her matrimonial home. On many occasions, she used to reside with the elder brother of her husband, who lived



in the ancestral house. On one occasion, the informant was given information that his daughter has died. When the son of the informant went to see, he found his sister dead. A UD case was also registered which was signed by the son of the informant. Later, the informant learnt that the deceased was killed at the instance of her husband, who had hired two mercenaries including the petitioner for the purpose.

On the basis of the aforesaid accusation, the petitioner is sought to be prosecuted.

Learned counsel for the petitioner has submitted that from the entire gamut of evidence, what transpires is that the husband of the deceased had married another lady after taking consent from the deceased because she was not giving birth to any child. The relationship between the deceased and her husband was not very cordial but off and on she used to visit the house of her husband. Some of the witnesses hailing from the village have revealed that the two wives of Binod use to fight amongst themselves and the deceased after such fight used to go to the house of the brother of aforesaid Binod. On one occasion, it was also decided amongst the family members that the property of Binod be partitioned, so that he does not fight with the deceased. One of the witnesses has stated before the



police that the husband of the deceased did not have a balanced mental frame.

It appears from the police papers that the husband of the deceased made a confession stating that he had asked one Ketul Paswan and the petitioner to kill his wife. Pursuant to the aforesaid contract, the deceased was killed and a pretence of her consuming poison and dying because of such consumption, was put up.

It appears from the records that beyond the confession, there is no other material to connect the petitioner with the offence. The ante-mortem injuries on the person of the deceased does not reflect that the same were caused for the purposes of killing. The viscera has been preserved and therefore, the allegation of her consuming poisonous substance has also not been substantiated as yet. The dead body was found in a field. Who brought it to the police station is not known. The investigation does not appear to have been carried out properly. The other person who is said to have been hired by the husband of the deceased for killing her is a juvenile, who has been released on the ground of juvenility.

Learned counsel for the petitioner has further informed this Court that the husband of the deceased



also has been granted bail by the court below. Thus, for all practical purposes, the only material against the petitioner is the statement made by the husband of the deceased in his confession before the police.

Regard being had to the aforestated facts, the case diary was called for by this Court vide order dated 22.07.2021 and the petitioner was granted provisional bail with a direction to him to participate in the investigation fully.

After having gone through the case diary, it appears that the evidence collected against the petitioner is too weak and is limited to the confession of the husband of the deceased who himself is on bail.

Considering the afore-noted facts, the provisional bail granted to the petitioner is hereby confirmed. He shall remain on the same bail bonds.

The application stands allowed.

(Ashutosh Kumar, J)

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