

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.7701 of 2021**

Arising Out of PS. Case No.-482 Year-2019 Thana- RAJAON District- Banka

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PAWAN CHAUDHARY SON OF LATE CHHABI LAL CHAUDHARY R/O
VILL.- NAWADA BAZAR, P.S.- NAWADA BAZAR, DIST.- BANKA

... .. Petitioner.

Versus

THE STATE OF BIHAR

... .. Opposite Party.

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Appearance :

For the Petitioner	:	Mr. Brij Nandad Prasad, Advocate.
For the State	:	Mr. Sanjay Kumar Tiwary, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE A. M. BADAR
ORAL ORDER

7 16-11-2021 The applicant/accused in Crime No.482 of 2019 registered with Police Station- Rajoun (Nawada) for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code at the instance of the first informant Meena Devi by this application is seeking his release on bail during the pendency of the trial.

Heard learned counsel appearing for the applicant/accused.

He argued that though the case of the prosecution case is based on oral dying declaration coming on record from the mouth of near and dear one of the deceased Piyari Devi, independent witnesses, who happen to be the neighbours of the deceased, are totally demolishing the case of the prosecution in respect of the offence alleged against him and, therefore, considering the period of detention of the applicant, he deserves to be released on bail. It is stated that the applicant is behind the bars from 04.01.2020.



My attention is drawn to the statements of the prosecution witnesses recorded under Section 161 of the Code of Criminal Procedure in order to support his submissions.

Learned Additional Public Prosecutor opposed the application by contending that the offence is punishable under Section 302 read with Section 34 of the Indian Penal Code and the applicant being the husband of the deceased had played prime role in the crime in question. Learned Additional Public Prosecutor further argued that the oral dying declaration of the deceased constitutes substantial basis of evidence and, therefore, the applicant is not entitled for bail.

I have considered the submissions so advanced and also perused the charge-sheet in the form of the case diary.

No doubt, the first informant Meena Devi and her husband Rajendra Chaudhary are making the averments regarding the oral dying declaration of their daughter pointing out finger of accusation against the applicant, neighbours of the deceased are not vouching about the same. It hardly needs to mention that when the case is based on multiple oral dying declaration, they needs to be consistent in material particulars. However, in the case in hand, independent witnesses such as Baidhnath Chaudhary, Rajendra Chaudhary and Raju Chaudhary have stated entirely different case of incinerating herself by Piyari Devi by pouring kerosene oil and by setting herself ablaze.



Considering the nature of the offence against the applicant as well as the fact that he is behind the bars since long, the following order:

(i) The application is allowed.

(ii) The applicant/accused in Crime No.482 of 2019 registered with Police Station- Rajoun (Nawada) for the offence punishable under Sections 302 read with Section 34 of the Indian Penal Code be released on bail on executing P.R. bond of Rs.15000/- (Rupees Fifteen Thousand) on furnishing surety in the like amount to the satisfaction of the trial court with the following conditions:

(I). The applicant should not extend any threat, promise or inducement to the persons acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any police officer.

(II). The applicant should cooperate the trial in expeditious disposal of the trial against him.

(A. M. Badar, J)

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