

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4072 of 2020

Arising Out of PS. Case No.-282 Year-2019 Thana- PARSABAZAR District- Patna

1. LEELAWATI DEVI @ LEELA DEVI @ LELAWATI DEVI W/O Vishwanath Prasad Resident of Yadavchak, PS - Parsa Bazar, District - Patna.
2. Vishwanath Ram @ Vishwanath Prasad @ Vishwanath Prasad Chandravanshi @ Vishavnath Ram S/O Late Vasudeo Ram Resident of Yadavchak, PS - Parsa Bazar, District - Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 85577 of 2019

Arising Out of PS. Case No.-282 Year-2019 Thana- PARSABAZAR District- Patna

AMIT KUMAR Son of Vishwanath Prasad @ Vishwanath Prasad Chandravanshi @ Vishwanath Ram @ Vishavnath Ram R/o Yadavchak, P.S.- Parsa Bazaar, District - Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 4072 of 2020)

For the Petitioner/s : Mr.Amit Narayan

For the Opposite Party/s : Mr.Bharat Lal

(In CRIMINAL MISCELLANEOUS No. 85577 of 2019)

For the Petitioner/s : Mr.Amit Narayan

For the Opposite Party/s : Mr.Pradeep Narain Kumar

Mr.Pankaj Kumar Jha

Mr.Abhijeet Gautam

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

6 17-01-2022 Heard the parties through virtual court proceedings.

Vide order dated 30.11.2021, the Senior Superintendent
of Police, Patna was directed to take action against the I.O.



concerned, who has not sent the viscera for its examination to the F.S.L. and then inform this Court.

In view of the said order, a letter dated 02.01.2022 sent by the Senior Superintendent of Police, Patna is kept at flag 'C' whereby it is submitted that show cause has been issued to the concerned I.O. and in response of the same, the I.O. has submitted that he visited to F.M.T. department of P.M.C.H., Patna on 03.12.2021 and got the packing of preserved Viscera of deceased and sent it to the F.S.L., Patna on the very same date.

Considering, the aforesaid facts and circumstances, this Court hopes that the Senior Superintendent of Police, Patna will take the appropriate legal action against the concerned Investigating Officer.

The petitioners apprehend their arrest in a case in connection with Parsa Bazaar P.S. Case No.282/2019, corresponding to G.R. No.7010/2019, registered for the offence punishable under Sections 304-B/34 of the IPC & $\frac{3}{4}$ of Dowry Prohibition Act.

The allegation against the petitioners is that they have poisoned the daughter of the deceased for non-fulfillment of demand of dowry, due to which she died in the way to hospital.

It is submitted by learned counsel for the petitioners that



petitioners are quite innocent and have committed no offence. They have been falsely implicated in this case. No such occurrence, in the manner as alleged has ever taken place. The allegation leveled against the petitioners is not specific rather general and omnibus in nature. There is no eye-witness of the alleged occurrence. During treatment of the victim, no such statement has been made before the police but after her death, the informant has lodged the present case. Nearby people has also not supported the prosecution case. In fact the deceased was suffering from a disease named 'Fibromyalgia' and died due to her medical condition. It is further submitted that the Viscera was sent to the F.S.L. after delay of more than two years, which is not admissible according to the Evidence Act and has relied upon the judgment passed in Cr. Appeal (SJ) No.70 of 1999 (Jagdish Chauhan vs. State of Bihar) dated 22.12.2011. Petitioners have no criminal antecedent, which is also mentioned in para-3 of the application.

Learned APP for the State as well as learned counsel for the informant opposed the prayer for anticipatory bail by submitting that there is specific allegation against the petitioners that after four months of the marriage, the victim has died in the matrimonial home. On 21.08.2019, it was informed to the



informant that deceased was not well, he went to her matrimonial home and found her writhing. He also felt smell of poison in her mouth. It is submitted that in the post mortem report, it was found that the stomach contained greenish color fluid about 100 ml., but the doctor has not confirmed that it contained poison, therefore, it was suggested to send the Viscera in the F.S.L. for its examination.

Having regard to the facts and circumstances of the case and on perusal of the materials on record, since there is delay of more than two years in sending the Viscera to the F.S.L. coupled with the fact that the prosecution witnesses have supported the case, I am not inclined to grant anticipatory bail to the petitioners named above. Accordingly, the prayer for grant of anticipatory bail is hereby rejected.

The instant applications are dismissed.

(Anjani Kumar Sharan, J)

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