

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23773 of 2021

Arising Out of PS. Case No.-87 Year-2020 Thana- BELAGANJ District- Gaya

=====

Dinesh Vishwakarma Son Of Late Devanandan Vishwakarma @ Deonandan Vishwakarma Resident Of Tola Korma, Kali Asthan, Hargawan, Belaganj, District - Gaya, Bihar.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Avinash Shekhar, Advocate

For the Opposite Party/s : Mr. Md. Mushtaque Alam, APP

=====

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

13 11-05-2022 The learned counsel for the applicant submits that though he has filed the interlocutory application for effecting amendment to the instant application, the same is not being traced out.

Be that as it may, the applicant want to amend the application so as to place on record the fact that the charge sheet has been filed for the offence punishable under Section 304B of the Indian Penal Code.

Leave to amend to that effect is granted. Amendment be effected immediately.

The applicant is accused in Crime No. 87 of 2020 registered with Belaganj Police Station for the offences punishable under Sections 304B, 341, 323, 326, 307 and 498A



read with Section 34 of the Indian Penal Code as well as Sections 3 and 4 of the Dowry Prohibition Act, by this application he is seeking his release on bail during pendency of the trial.

Heard the learned counsel appearing for the applicant/accused as well as learned Additional Public Prosecutor appearing for the State.

The learned counsel for the applicant argued that co-accused Savita Devi has been granted anticipatory bail by the coordinate Bench of this Court vide order dated 17.01.2022. It is further argued that the alleged dying declaration of the deceased is totally unreliable and untrustworthy. It is further argued that husband of the deceased had also sustained burn injuries and this fact belies the dying declaration in the wake of statement of witnesses recorded during the course of the investigation. It is further argued that there is no evidence to show that soon before her death, the married woman was subjected to cruelty or harassment for and on account of demand of dowry.

The learned Additional Public Prosecutor opposed the application by contending that the offence is serious and there is dying declaration of the deceased recorded at the



hospital which points out ingredients of the alleged offences.

I have considered the submissions so advanced and also perused the case-diary.

Sweety Kumari (since deceased) married son of applicant Dinesh Vishwakarma on 15.06.2019. She sustained burn injuries at the house of the present applicant and his son on 17.03.2020. Sweety Kumari died because of burn injuries on 29.03.2020. The incident took place at village Belaganj and the death was at Patna Medical College and Hospital. At that Hospital dying declaration of Sweety Kumari is seen to have been recorded by Sub-Inspector Amit Kumar.

According to the prosecution case, Sweety Kumari was subjected to cruelty and harassment by her husband and her in-laws, soon before her death she was being harassed for demand of dowry.

Though in the dying declaration, Sweety Kumari has averred about commission of her murder by the present applicant as well as her husband Anand, the police has filed the charge sheet for the offence punishable under Section 304B of the Indian Penal Code. This is a relevant factor.

In her dying declaration Sweety Kumari has stated that she was subjected to cruelty on account of demand of



dowry of rupees fifty lacs by her in-laws including her husband. She was not provided with food and abuses were hurled at her. She averred in her dying declaration that when she expressed inability to pay dowry, the present applicant, who happens to be the father-in-law caught hold of her and her husband Anand poured kerosene oil on her person and she was set ablaze.

The FIR of the subject crime was lodged by Rakesh Vishwakarma who happens to be the father of the deceased. He stated that from her daughter he came to know that her husband as well as in-laws poured kerosene on her person and set her ablaze and thereafter she was pushed inside the room.

As against this, during the course of investigation, the investigator has recorded the statement of Dayanand Vishwakarma who reached on the spot at the time of the incident. He stated that when he as well as his cousin Anand attempted to breakopen the door of the room from which smoke was emitting, Sweety Kumari (since deceased) opened that door and embarrass her husband Anand Kumar. Record of investigation shows that Anand Kumar had sustained superficial burns.

There is no specific averment regarding demand of



dowry and consequent harassment soon before the incident in the FIR lodged by father of the victim.

The offence is not punishable exclusively with life imprisonment. Hence, on completion of investigation, further pretrial detention of the applicant, who happens to be the father of the applicant, is not warranted and therefore, the order :-

i. The application is allowed.

ii. The applicant/accused in Crime No.87 of 2020 registered with Belaganj Police Station be released on bail on executing P.R. bond of Rs.10,000/- (Rupees Ten Thousand) on furnishing surety of the like amount to the satisfaction of the trial court with the following conditions: -

(I) The applicant/accused should not extend any threat, promise of 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/accused should cooperate the trial court in expeditious disposal of the trial against him.

(III) The applicant/accused should not contact the members of the prosecuting party as well as witnesses in this case in any manner till conclusion of the trial.



(IV) The applicant should not repeat commission of similar offence in future and if he is found to be involved in commission of similar offence, the State is at liberty to apply for cancellation of bail granted to the applicant in the instant case.

The applicant to remove all office objections forthwith and the Registry to issue the certified copy of this order only after removal of office objections by the applicant/accused.

(A. M. Badar, J)

Mkr./-

U		T	
---	--	---	--

