

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23733 of 2021

Arising Out of PS. Case No.-60 Year-2013 Thana- MUNGER MUFFASIL District- Munger

Md. Saheed, Son of Late Md. Sattar, Resident of Village - Bardah, P.S.-
Muffasil, Distt.- Munger.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Raj Kumar Choudhary, Advocate
For the Opposite Party/s : Mr. Satya Nand Sukla, APP

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

7 26-04-2022 The applicant/husband of the deceased Kahkasha Bano, who is accused in Crime No. 60 of 2013 registered with Muffasil Police Station for the offences punishable under Sections 498A and 302 r/w Section 34 of the Indian Penal Code, by this application is seeking his release on bail during pendency of the trial after filing of the charge sheet.

Heard the learned counsel appearing for the applicant/accused. He argued that the applicant is behind the bars from last two years and there is nobody to take care of his two young sons. It is further argued that the deceased was patient of heart ailment and in fact the applicant used to give medical treatment to her. For this purpose, reliance is placed on the documents of medical treatment of the deceased annexed with the application. It is further argued that there is



no eye witness to the incident in question and even statement of the witnesses is belying the prosecution case in respect of other accused persons who were virtually not present on the scene of the occurrence at the time of occurrence.

The learned Additional Public Prosecutor opposed the application by relying on statement of Jainul (paragraph 104) and Md. Babal (paragraph 105) of the case diary and argued that version of both these witnesses goes to show that the deceased used to be subjected to ill treatment and she was subjected to severe beating by the applicant.

I have considered the submissions so advanced and also perused the case diary of the subject crime.

Papers of medical treatment of deceased Kahkasha Bano placed on record goes to show that she was suffering from heart ailment and the attending Medical Officer had referred her to the Higher Centre.

In the backdrop of heard ailment of the deceased, it is seen from the case diary that the prosecution has recorded statements of Md. Jamsed (paragraph 11), Md. Saro (paragraph 29) and Md. Mokhtar (paragraph 28) as well as those of Jainul (paragraph 104) and Md. Babal (paragraph 105). All these witnesses who seems to be neighbour of the



deceased and the present applicant are unanimously stating that the deceased was suffering from heart ailment. Version of witness Md. Jainul is to the effect that when he rushed to the spot he came to know that the victim was being taken to the Doctor but in that process itself she passed away. Statement of Md. Saro is to the effect that the deceased became serious and she was being taken for medical treatment but she died in the house itself. Md. Mukhtar has stated that the deceased became ill and she was to be taken for medical treatment but she died in the house itself. Witness Jainul (paragraph 104) has stated that the deceased was suffering from heart ailment but the applicant and his relatives used to ill treat her and beat her. However so far as the incident is concerned, he stated that he came to know that when the deceased was to be taken to the hospital for treatment she died. Md. Babal's version is similar to that of Jainul.

Report of the postmortem examination of the deceased shows that she died because of traumatic asphyxia as a result of injuries caused by forced pressure over her chest. At the time of trial, this aspect will have to be considered in the light of the fact that the deceased was patient of heart.

As the eye witnesses are stating about ill health of



the deceased and that she was about to be taken to the hospital but she died in her house itself, I am of the considered opinion that further pretrial detention of the applicant is not warranted. Therefore, the order :-

i. The application is allowed.

ii. The applicant/accused in Crime No. 60 of 2013 registered with Muffasil Police Station for the offences punishable under Sections 498A and 302 r/w Section 34 of the Indian Penal Code be released on bail on executing P.R. bond of Rs.25,000/- (Rupees Twenty Five Thousand) on furnishing two sureties 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.

(V) The applicant should attend the learned trial court on each and every date of hearing unless and until he is exempted from personal appearance by the learned trial court. If the applicant fails to attend a single date of hearing without seeking exemption, the trial court is directed to issue Non-Bailable Warrant of arrest against the applicant and to take him in custody.

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 appellant/accused.

(A. M. Badar, J)

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