

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24258 of 2021

Arising Out of PS. Case No.-70 Year-2020 Thana- ASANWA District- Siwan

Stayendra Yadav @ Satyendra Yadav, Son of Gamma Yadav Resident of
Village - Moglanipur, P.S.- Assaon, District - Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. N.A. Shamsi, Adv.

Mr. Ravindra Nath Dubey, Adv.

For the Opposite Party/s : Mr. Shailendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR PANDEY
ORAL ORDER

4 09-03-2022 The learned counsel for the petitioner is directed to
remove all the defects pointed out by the Stamp Reporter within one
month.

Heard learned counsel for the petitioner as well as learned
APP for the State.

The petitioner apprehends his arrest for the offences
alleged under Sections 498(A), 304(B), 120(B)/34 of the Indian
Penal Code along with 3/4 Dowry Prohibition Act.

It is a case of dowry death. As per the allegation, the
accused persons committed dowry death of the deceased. On
20.06.2020 the informant went to the house of the deceased and
found that the accused persons named in the FIR has committed
dowry death of the deceased by strangulating her throat.

By filing Annexure-2, the birth certificate of Amrit Raj,
the son of the deceased the learned counsel for the petitioner has



submitted that the date of birth of Amrit Raj has been mentioned as 02.05.2010, which shows that the marriage of the couple has been solemnized at least in 2009.

He has submitted that in FIR it has been mentioned that the marriage of couple was solemnized six years prior to lodging of the FIR is being falsified itself. This fact has been mentioned only with intent to make the offence graver. He has further submitted on the fateful day the petitioner who is husband was on his duty as he was employed in *Seema Surakhsha Bal*. He has submitted further that considering the above-mentioned facts and circumstances the co-ordinate Bench has granted anticipatory bail to co-accused Laxman Yadav and Arun Kumar Yadav @ Arun Yadav in Cr. Misc. No.6994 of 2021. The order of the co-ordinate Bench has been filed and is available with the record, which shows that in paragraph no.11 of that order the co-ordinate Bench has observed that in view of the reliable materials to indicate that the son of the deceased was born in the year 2010 and also the incorrect statement having been made in the FIR that the marriage took place seven years prior to date of incident. After mentioning this facts the co-accused persons have been granted anticipatory bail by the co-ordinate Bench.

On the other hand, the learned Additional P.P. has submitted that the witnesses in the case diary have supported the occurrence and in postmortem report the mark of strangulation was also found.



As per observation of the co-ordinate Bench of this Court, the allegation has been falsified as the marriage has taken place prior to 2010 and for making the offence graver, it has falsely been mentioned in the FIR that the marriage was solemnized six years prior to lodging of the FIR.

On the fateful day the petitioner was not on the spot, rather he was on duty at *Seema Suraksha Bal*.

Considering the above facts and circumstances, specially the fact that on the fateful day the petitioner was on his duty in *Seema Suraksha Bal*, let the petitioner above named, in the event of his arrest or surrender within three weeks from the date of communication of this order be released on bail on furnishing bail bond of Rs.10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Siwan in connection with Assaon P.S. Case no.70 of 2020, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

Office shall ensure that all the defects are removed by the petitioner within the stipulated time as provided hereinabove, failing which the matter shall be brought to the notice of this Court.

(Nawneet Kumar Pandey , J)

Prakash Narayan /-

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