

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.25544 of 2021

Arising Out of PS. Case No.-452 Year-2020 Thana- CHANPATIA District- West Champaran

ABHAY DUBEY S/o Late Panch Deo Dubey @ Surendar Narayan Dubey
Resident of Village and P.O.- Barohiya, P.S.- Chanpatiya, District- West
Champaran at Bettiah.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Chandra Mohan Jha

For the Opposite Party/s : Mr.A.G.

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

6 06-09-2022 Let the defect(s), as pointed out by the office, be
removed within a period of four weeks from today.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with
Chanpatiya P.S. Case No. 452 of 2020 registered for the offences
punishable under Sections 302/201 of the Indian Penal Code.

As per prosecution case, there is accusation against
the petitioner to administer poison to his wife and she died in the
way to hospital. It is further alleged that the dead body was burnt
with intention to conceal the evidence.

Learned counsel for the petitioner submits that
petitioner is in custody since 04.09.2020. Petitioner bears no
criminal antecedent. Charge sheet has already been submitted in



the case and there is no likelihood of tampering with the prosecution evidence. Learned counsel further submits that during course of investigation, it is found that informant and his father attended the cremation of the deceased voluntarily and they did not bother to inform the police about the said incident but after cremation of dead body of deceased the informant lodged the F.I.R. Learned counsel further submits that the allegation of administering position has no meaning at all when dead body has not been given for postmortem and cause of death cannot be ascertained. From perusal of the F.I.R., it is also ambiguous that if deceased has been taken away by informant how the petitioner got possession of the body and cremated her. It is further apparent from perusal of F.I.R. that informant has not indicated about the motive behind the torture and killing of his sister. From perusal of the F.I.R. itself all the alleged sections are not applicable against the petitioner.

The learned A.P.P. for the State vehemently opposes the prayer for bail of the petitioner.

The learned Trial Court vide his letter no. 385 reported that charge has not been framed as yet.

Considering the facts and circumstances of the case as well as period of custody, charge-sheet has already been submitted and there is no likelihood of tampering with the



prosecution evidence, keeping in view clean antecedent of the petitioner, argument advanced on behalf of the parties and also taking into consideration the material available on record, let the petitioner above named be released on bail after framing of charge on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., West Champaran at Bettiah in connection with Chanpatiya P.S. Case No. 452 of 2020, subject to following conditions:-

(i) One of the bailors shall be either father or mother or sister or brother or wife or the person who has sworn the affidavit in bail application.

(ii) Petitioner will co-operate in trial and will remain present on all dates and absence for any date without appropriate permission would be a ground for cancellation of bail by the learned Trial court itself.

(iii) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

(iv) Petitioner shall not leave the territorial jurisdiction of the learned trial court without appropriate permission from the court concerned.

(v) Petitioner shall furnish mobile number at the time



of furnishing bail bond and the said mobile number shall continue in operating condition till disposal of the case.

(vi) If petitioner violates any of the above mentioned conditions, his bail bond shall be cancelled by the learned trial court itself.

(Alok Kumar Pandey, J)

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