

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16411 of 2020

Arising Out of PS. Case No.-266 Year-2019 Thana- MAHUA District- Vaishali

SANTOSH KUMAR S/o Shri Shiv Ji Singh, Resident of Village-
Mahuasingh, Rai, P.S.- Mahua, Distt- Vaishali. Petitioner/s
Versus

The State of Bihar Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. P.K. Sahi, Sr. Adv. Mr. Sumeet Kumar Singh, Adv. Mr. Nikki Singh, Adv. Mr. Satyendra Prasad Singh, Adv.
For the Opposite Party/s :		Mr. Amitesh Kumar Md. Nadim Seraj Mr. Shailesh Kumar

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

7 08-03-2022 Heard Mr. P. K. Sahi, the learned Senior counsel for the
petitioner and the learned Additional Public Prosecutor for the
State assisted by the learned counsel for the informant.

The petitioner apprehends his arrest in connection with
Mahua P.S. Case No. 266 of 2019 registered for offence
punishable under sections 304(B)/34 of the Indian Penal Code and
sections 3/4 of the Dowry Prohibition Act.

The informant Vidyanand Singh has lodged fardbeyan,
mentioning therein that the marriage of his daughter Sangila
Kumari (since dead) was solemnized with the petitioner on
25.01.2019. The customary presents as well as Rs.10,000,00/- cash
were given at the occasion of her marriage, but his son-in-law (the
present petitioner) was not satisfied. He demanded an Alto Car.



Due to non-fulfillment of demand, he inflicted atrocities upon the deceased. They also threatened to kill her if their demand remains unfulfilled. On 12.05.2019, when the informant went to the matrimonial house of his daughter, she was weeping bitterly and also showed the marks of assault on her body. She also apprised the informant that the accused persons were making pressure upon her to fulfill the demand of an Alto Car. The present petitioner has threatened the informant also on 15.05.2019 that had his demand remains unfulfilled, the informant will see the dead body of his daughter. On next day, i.e. 16.05.2019, the informant received a telephonic message from unknown caller that his daughter was done to death. He reached her matrimonial house and found that his daughter was strangled to death.

The learned senior counsel for the petitioner Mr. P.K. Sahi has submitted that in the FIR it has been mentioned that some unknown person has transmitted the telephonic information about the death of the deceased, to the informant but the name of that unknown person has not been mentioned. His further submission is that none has committed murder of the deceased, rather she herself has committed suicide by strangulating herself. She has left a suicidal note mentioned in paragraph 35 of the case diary, as per submission, which shows that she was unable to become a mother. The door was broken down and the dead body was recovered.



Lastly it has been submitted that from perusal of the aforementioned facts, section 304B of the Indian Penal Code is not attracted.

Per contra, the learned counsel for the informant has submitted that the deceased was done to death within four months of her marriage. The FIR itself shows that soon before her death, she was subjected to cruelty at the hands of the present petitioner, who is the husband, for non-fulfillment of an Alto Car. Even on the day preceding, the fateful day, the informant received a telephonic message that had his demand remains unfulfilled, the informant would not see the face of his daughter and on next day, the dead body of the deceased was found.

By drawing my attention towards paragraph no. 91 of the case diary, which contains the supervision note of the Superintendent of Police, the learned counsel for the informant has submitted that in *post mortem* report, the uterus of the deceased was found gravid, which shows that at the time of death, she was pregnant and considering these facts, the Supervisory Authority has directed the Investigating Authority to add section 313 of the Indian Penal Code. He has further submitted that the leg of the dead body was touching to the ground when her dead body was found hanging, which shows that she did not commit suicide, rather she was done to death.



Considering these facts, the Investigating Authority amended the section 306 of the Indian Penal Code to Section 304B of the Indian Penal Code.

The learned Additional Public Prosecutor has submitted that in suicidal note, the deceased has mentioned that she would not give an opportunity to the present petitioner that he would kill her.

Considering the above mentioned facts and circumstances, it appears that the material on the case dairy, which shows that soon before her death, she was subjected to cruelty for non-fulfillment of demand of dowry. As such, the present petitioner does not deserve the privileges for anticipatory bail and accordingly, his prayer for anticipatory bail is hereby rejected.

If the petitioner surrenders before the court below and makes a prayer for regular bail, it shall be considered on its own merit.

(Nawneet Kumar Pandey , J)

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