

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28371 of 2021

Arising Out of PS. Case No.-26 Year-2020 Thana- MAIN P.S. District- Gaya

Rakesh Kumar Son of Late Raju Prasad Resident of Village - Raghuni Bigha,
Police Station - Main and District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manish Kumar, Advocate.

For the Opposite Party/s : Mr. Lakshmi Kant Sharma, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

9 27-06-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Heard Mr. Manish Kumar, learned counsel for the petitioner as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the bar in connection with Main (Paibigha O.P.) P. S. Case No. 26 of 2020 registered for the offences punishable under Sections 302, 201 and 120 (B) of the Indian Penal Code.

As per the prosecution case, it is alleged that the marriage of the daughter of the informant was solemnized with the petitioner in the year 2006 and from their wedlock, a boy



was born. It is further alleged that one month before the occurrence, the daughter of the informant was assaulted by this petitioner and ousted from her in-law's house for demand of dowry. It is further alleged that while the daughter of the informant was residing in her maternal house, in the meantime, on 11.07.2020 this petitioner came to her *maika* and took her to her *sasural*. On 13.07.2020, the informant received an information that her daughter was killed by all the accused persons including this petitioner.

Learned counsel appearing on behalf of the petitioner submitted that from bare perusal of the F.I.R., it is evident that the marriage was solemnized way back in the year 2006 and this occurrence has taken place after thirteen years and as such, the story of demand of dowry and any torture appears to be false. It is next submitted that during the course of investigation, it has come that this petitioner is living in Kolkata for his livelihood, in the meantime, the deceased had developed relationship with one Dheeraj Kumar and just before the occurrence due to aforementioned reason some altercation had taken place between husband and wife and the deceased in state of anger took some poisonous substance and died. The aforesaid facts has also been supported by the independent witness, whose



statement have been recorded in paragraph nos. 30 and 31 of the case diary. It is also submitted that after taking the poisonous substance the victim was taken to the hospital by the petitioner and thereafter, her body was also taken to her *maika*, which also shows the innocence of this petitioner. It is lastly submitted that this petitioner is in custody since 16.07.2020, though the investigation of the crime has already been completed and after investigation the charge-sheet has been submitted under Section 306 of the Indian Penal Code.

On the other hand, learned APP for the State opposes the bail application and submits that the petitioner happens to be husband of the deceased and he was under moral obligation and duty to keep her wife safe.

Having considered the submissions made on behalf of the parties and taking into account the fact that the marriage is of the year 2006 and during the course of investigation, the independent witnesses have supported the fact that the deceased herself has committed suicide on account of some altercation took place between the husband and the wife in as much as the police has not found the case true under Section 302 of the Indian Penal Code and charge-sheet has been submitted under Section 306 of the Indian Penal Code, let the petitioner, above



named, be released on bail on furnishing bail bonds of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Gaya in connection with Main (Paibigha O.P.) P. S. Case No. 26 of 2020, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

- (i) The petitioner will cooperate in conclusion of the trial.
- (ii) He will remain present on each and every date of trial till disposal of the case.
- (iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.
- (iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.
- (v) The Court below shall verify the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancelling of bail bond of the



petitioner. However, the acceptance of bail bonds
in terms of the above-mentioned order shall not
be delayed for purpose of or in the name of
verification.

(Harish Kumar, J)

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