

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19035 of 2022

Arising Out of PS. Case No.-140 Year-2019 Thana- CHAKAND District- Gaya

MD. ZAHID S/o Late Md. Arif Resident of Village - Shadipur, P.S. -
Chakand, District - Gaya.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ramakant Sharma, Sr. Advocate Mr. Sanjay Kr. Sinha, Advocate
For the informant		Mr. Arvind Kumar Singh, Advocate
For the State	:	Mr. Satyendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 14-09-2022 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 and the State.

Petitioner seeks regular bail in Chakand P.S. Case no.
140 of 2019 registered for the offence punishable under section
304B/34 of the Indian Penal Code and 3/4 of Dowry Prohibition
Act.

The main allegation is that the petitioner, who
happens to be husband of the deceased and the family members
of the petitioner always tortured the informant's sister for the
demand of one lakh rupees and a motorcycle and finally they
killed the deceased by strangulating her and the marriage of the



deceased took place with this petitioner just one and half year ago.

The main submissions advanced by learned senior counsel Sri Ramakant Sharma appearing for the petitioner are that against the petitioner there is no specific allegation and any specific act or role of the petitioner in committing the death of the deceased has not been alleged in the FIR and petitioner's specific role has also not been alleged by any of the witnesses during the course of investigation and similarly situated co-accused persons namely, Md. Shahid, Md. Wahid, Md. Mazid have been granted anticipatory bail by a co-ordinate bench of this Court vide order passed Cr. Misc No.33528/2020. Further submission is that the petitioner is a government employee serving as constable in Para-military force presently posted in Jammu and Kashmir and he has been languishing in jail since 05.01.2022 and marriage of the deceased was an exchange marriage and one girl of the petitioner's family was married in the family of the deceased and the said fact was taken into account by a co-ordinate bench of this Court while granting privilege of anticipatory bail to accused persons and in view of the exchange marriage the presumption of dowry demand cannot be made.



On the contrary learned counsel Sri Arvind Kumar Singh appearing for the informant and learned APP Sri Satyendra Prasad appearing for the State have vehemently opposed the bail prayer and submitted that the petitioner is husband of the deceased and he is the main accused of this case and at the time of death he was also present along with the co-accused persons and activity of the accused persons remained highly suspicious when the door of the petitioner's house was opened forcefully by the villagers on getting the information that some wrong had been committed with the victim.

Heard both sides, perused the FIR and the case diary of this case. Marriage of informant's sister took place just one and half year before her death. FIR goes to show that the deceased died in suspicious circumstance and the same was an unnatural death and according to the FIR she was tortured by the petitioner including his family members for the demand of one lakh rupees and a motorcycle. Though some of the co-accused persons are on bail but the petitioner appears to be the main accused of this case as he had prime duty to protect his wife at the time of alleged occurrence and as per statement of one witness mentioned in paragraph no. 8 of the case diary, when the door of the petitioner's house was opened then this



petitioner and co-accused persons fled away on seeing the villagers. The said conduct of the accused persons including the petitioner goes against them.

Considering the nature of allegation and mainly taking into account the fact that the deceased died just one and half year after her marriage and the presumption of dowry death under the Evidence Act goes against the petitioner. In the light of these facts, in the opinion of this Court the petitioner does not deserve to the privilege of bail accordingly, his bail prayer stands rejected. The petitioner may renew his bail prayer after framing of charge.

(Shailendra Singh, J)

s.hassan/-

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