

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29462 of 2021

Arising Out of PS. Case No.-11 Year-2018 Thana- KANHauli District- Sitamarhi

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Azad Mansoor @ Azad Mansoori @ Azad Alam @ Ayad Mansoor @ Ajad Alam, S/o Hasim Mansoor @ Hasim mansoori, R/o village- Kanhauli, Ward No. 1, P.S.- Kanhauli, District- Sitamarhi, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ashhar Mustafa, Advocate
For the Opposite Party/s	:	Mr. Fahimuddin, APP
For the Informant	:	Mr. Pushpendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

7 13-07-2022 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, within a period of four weeks from today.

Heard. Mr. Ashhar Mustafa, learned counsel appearing on behalf of the petitioner, Mr. Pushpendra Kumar Singh, learned counsel appearing on behalf of the informant as well learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Kanhauli P.S. Case No.11 of 2018 registered for the offences punishable under Sections 304(B)/34 of the Indian Penal Code.

As per the prosecution case, it is alleged that the marriage of the daughter of informant was solemnized with the



petitioner in the year 2010 and soon thereafter she was subjected to torture for the demand of Rs. 5,00,000 (five lac). It is further alleged that Panchayati was also held but the dispute could not be resolved and ultimately she received information on 06.01.2018 that her daughter was found dead with mark in her neck.

It is submitted by the learned counsel appearing on behalf of the petitioner that admittedly the death of the deceased has been occurred after seven years of marriage and as such offence under section 304(B) of the Indian Penal Code is not made out against the petitioner, even on the strength of Section 113B of the Indian Evidence Act. It is next submitted that so far the allegation of the Panchayati is concerned, during the course of investigation none of the witnesses has supported the factum of any Panchayati. It is further submitted that in the post-mortem report, though the cause of the death is said to be asphyxia leading to cardiac respiratory failure due to strangulation, but there is no mark of any violence or injury found over the body of the deceased. Learned counsel for the petitioner has also drawn the attention of this Court over the external injuries as mentioned in the post-morte report and submits that the finding of external injury also appears in the



case of suicide and the same is subject matter of trial. It is lastly submitted that this petitioner, being the husband of the deceased, himself surrendered on 27.02.2020 and since then he is in custody.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that it is a case of dowry death and death has occurred in the matrimonial house and just before her death, she was subjected to torture for demand of dowry and moreover the post-mortem report also corroborates the allegation that she was done to death by strangulation. It is also submitted that now charges have already been framed and altogether two witnesses have been examined.

Learned APP for state also opposed the bail application.

Having considered the submissions made on behalf of the parties and taking into consideration the fact that admittedly the death of the deceased was occurred after seven years of marriage and the postmortem report suggests no mark of violence over the body of the deceased and the finding suggested by the Doctor is to be tested in trial and moreover this petitioner is in custody since 27.02.2020 and is ready to give undertaking that he will remain present on each and every date



fixed in the trial, let the petitioner, named above, 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 Chief Judicial Magistrate, Sitamarhi in connection with Kanhauli P.S. Case No. 11 of 2018, subject to the condition that one of the bailors will be the close relatives 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..

(Harish Kumar, J)

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