

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21731 of 2022

Arising Out of PS. Case No.-395 Year-2021 Thana- BHELDI District- Saran

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Pankaj Baitha, Son of Late Kameshwar Baitha, Resident of Village-
Kishunpur, P.S.- Bheldi, Distt.- Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Advocate
		Mr. Gajendra Kumar Singh, Advocate
For the Opposite Party/s	:	Mr. Ram Bilash Roy Raman, APP
For the Informant	:	Mr. Arun Kumar Rai, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

5 18-10-2022 It appears that due to inadvertence, serial number of order dated 20.09.2022, has wrongly been typed as 2, in place of 4.

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. Ajay Kumar Thakur, learned counsel for the petitioner and learned counsel for the informant as well as learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Bheldi P.S. Case No. 395 of 2021 registered for the offences punishable under Sections 304(B), 120(B), 201/34 of the Indian Penal Code.



As per prosecution case, it is alleged that the marriage of the daughter of the informant was solemnized with the petitioner on 09.02.2014, however, soon after the marriage, she was subjected to demand of dowry and on account of non-fulfillment of the same, she was tortured at the hands of all the family members, including the petitioner. It is further alleged that from the wedlock of the petitioner and his daughter three children had born, but still the accused persons continued their demand. It is further alleged that on 14.12.2021, on account of non-fulfillment of demand of dowry his daughter was done to death by all the accused persons, including the petitioner.

Learned counsel appearing on behalf of the petitioner submits that from the F.I.R., it would be evident that the marriage of the petitioner was solemnized on 09.02.2014 and the death has taken place on 14.12.2021 and taking into consideration this aspect of the matter, the charge-sheet has been submitted under Sections 302, 201, 120(B)/34 of the Indian Penal Code. He further submits that the petitioner is employed as Assistant Manager in Bank of India and he was leading happy conjugal life with the deceased, as from their wedlock three children had born and the cordial relation of the petitioner and his wife is evident from the fact that a huge amount, more than



rupees three lakhs, on several occasions, have been deposited in the account of the deceased and in support of his submission, a post-office account of the deceased has been brought on record by way of Annexure-2. He next submits that since it is a case under Section 302 of the I.P.C. and, as such, the presumption as provided under Section 113B of the Indian Evidence Act would not be attracted and in absence of any specific allegation and the materials available on record, mere allegation that too general and omnibus nature, cannot constitute offence under Section 302 of the Indian Penal Code. He next submits that during the course of investigation it has come that on the fateful day the deceased fallen from the stair of the house and sustained injuries and for her treatment she was initially taken to Parsa and thereafter brought to P.M.C.H. for treatment, where she died. He lastly submits that the petitioner is ready to give undertaking that he will fully cooperate in the trial and, moreover, the petitioner, having fair antecedent, is in custody since 16.12.2021.

On the other hand learned APP for the informant vehemently opposes the bail application and submits that specific allegation has been levelled against the petitioner, who happens to be the husband of the deceased and the defence



taken by the petitioner falsifies from the statement of the mother recorded in para. 21 of the case diary, wherein she has categorically stated that on account of some quarrel taken place between the husband and wife, the deceased committed suicide. He also submits that other witnesses and family members have also supported the prosecution case that the deceased was subjected to torture on account of non-fulfillment of dowry.

Learned counsel for the State also opposes the bail application and drawn the attention of this Court towards the statement of various witnesses.

Regard being had to the submissions made on behalf of the parties and considering the fact that there is no specific allegation against the petitioner, rather a general and omnibus allegation has been levelled against all the family members and there are materials, which suggests that there was cordial relationship between the husband and wife, as three children were born out from the wedlock and a handsome amount, more than three lakhs, was deposited in the account of the deceased wife, apart from the fact that the petitioner, having fair antecedent, is in custody since 16.12.2021, let the petitioner, named above, be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees twenty five thousand) with two sureties of



the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Chapra in connection with Bheldi P.S. Case No. 395 of 2021, 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 physically 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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