

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36094 of 2021

Arising Out of PS. Case No.-240 Year-2020 Thana- CHHATAPUR District- Supaul

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Moti Khan @ Motiur Rehman Son of Mosim Khan Resident of village - Kichkichiya Rampur, Police Station - Forbisganj, District - Araria, at present residing in Village - Modhopur, Ward No. 01, Police Station - Chhatapur, District - Supaul.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arun, Advocate

For the Opposite Party/s : Mr. APP

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 03-01-2022 Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner seeks regular bail in connection with Chhatapur P.S. Case No. 240 of 2020 instituted for the offences under Section 302 of the Indian Penal Code.

Learned counsel for the petitioner submits that the petitioner is in custody since 25.01.2021, is a person with clean antecedent and charge-sheet has been submitted in the case.

Learned counsel for the petitioner submits that from bare perusal of the allegation as alleged in the F.I.R. it would manifest that the informant alleges that she heard Md. Shahid (Imam of the Mosque) and Md. Shafiq Khan saying that the petitioner and named accused persons were killing her husband



who had gone to offer *namaz* and when the informant went there she saw the petitioner sitting on chest of her husband and pressing his neck while Ibrahim was pressing his mouth, Samsad and Siraj were holding his legs and Manan had caught the hand and Jahangir along with other accused killed her husband.

Learned counsel for the petitioner submits that the case was investigated and charge-sheet has been submitted under Section 304 of the I.P.C. and not under Section 302 of the I.P.C. as it has come in the impugned order also and even the doctor has not opined with regard to the reason for the death rather has kept the viscera preserved which amply demonstrates that though the allegation is of assault and pressing of neck, the doctor did not find any external injury as such viscera has been preserved in order to ascertain the cause of the death.

Learned A.P.P. for the State vehemently opposes the prayer for regular bail of the petitioner.

Considering the fact that the petitioner is in custody since 25.01.2021, charge-sheet has been submitted under Section 304 of the I.P.C., and the petitioner is a person with clean antecedent, let the petitioner above named be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty



Five Thousand only) with two sureties of the like amount each to the satisfaction of learned C.J.M., Supaul in connection with Chhatapur P.S. Case No. 240 of 2020.

(Satyavrat Verma, J)

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