

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.27294 of 2022**

Arising Out of PS. Case No.-120 Year-2015 Thana- DIGHA District- Patna

Prabhat Kumar S/o Late Jung Bhadur Singh @ Avadhesh Jangabahadur R/o Bharsara, P.S.- Bihiya, District- Bhojpur. A/o Ganga Bridge Colony Behind Gur Ka Mandir, P.S.- Alamganj, District- Patna and also Locality - Gaighat, Gulzarbagh, Patna City, P.S.- Alamganj, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr. Ravish Mishra

For the Opposite Party/s : Mr. Yogendra Kumar

**CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR**  
**ORAL ORDER**

4      02-11-2022                      Heard learned counsel for the petitioner and  
  
learned APP for the State.

The petitioner seeks bail in connection with Digha  
  
P.S. Case No. 120 of 2015, registered for the offences  
  
punishable under Section 302 of the Indian Penal Code.

The prosecution case as emerging from the FIR is  
  
that the sister of the informant was killed by the petitioner,  
  
as he always threatened to kill her to grab her father's  
  
property.

The learned counsel for the petitioner submits that  
  
the petitioner is innocent and has falsely been implicated in  
  
this case. He further submits that the accused-petitioner had



entered into love marriage with the deceased-wife in 2013. He also submits that no complaint whatsoever has been filed by the deceased-wife against the accused-petitioner during her life time. He further submits that the deceased-wife was not carrying good health as she was suffering from multiple health problems and getting treatment in NMCH. He has filed copy of the medical treatment at NMCH in support of the submission. He further submits that she was also suffering from HIV positive and in support of the plea, discharge slip of the deceased-wife from NMCH, Patna has been filed showing that she was diagnosed of HIV positive. He also submits that prior to death of the deceased on 23.04.2015, she was hospitalized in PMCH and she died there and as per certificate of the Registrar of the Office of Superintendent of PMCH, Patna she died of uncontrolled seizure (6TCS). He also refers to post mortem report as per which reason of the death is not clear. However, viscera was preserved and sent to FSL for examination. He submits that the sequence of events clearly shows that there is no mens rea or actus rea on the part of the accused-husband to kill his wife and she



has died on account of ill-health. He further submits that even in the charge-sheet there is no concrete evidence in support of culpability of the accused-husband. He also submits that the petitioner has been languishing in jail since 10.08.2021 and no investigation is pending as charge sheet has already been submitted.

It is also stated in paragraph no. 2 of the petition that the petitioner has never moved before this Court for grant of anticipatory bail or regular bail.

It has further been stated in paragraph no. 3 that the petitioner has been made accused in one more case, namely, Digha P.S Case No. 69 of 2014.

However, the learned APP for the State vehemently opposes the prayer of the petitioner for bail submitting that the alleged offence is serious in nature and as per the report of the FSL, Aldrin has been found in viscera.

At this, learned counsel for the submits, it is possible that she may have consumed Aldrin on account of frustration arising out of ill-health and suffering but there is



no actus rea and mens rea on the part of the accused-husband to kill his wife.

Considering the aforesaid facts and circumstances, the petitioner, above-named, is directed to be released on bail on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the Ld. Chief Judicial Magistrate, Patna in connection with Digha P.S. Case No. 120 of 2015 on the following conditions:

(i) The petitioner will make himself available for interrogation by a police officer/court as and when required.

(ii) The petitioner will undertake that investigation/trial will not hamper on account of his absence or non-cooperation. He must be available to the police or the court whenever his presence is required.

(iii) The petitioner shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.



(iv) In case, it is brought to the notice of the court below that the petitioner has criminal antecedent other than the disclosed one, the learned court below shall cancel the bail bond of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedent despite his knowledge of the same.

(v) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, the learned court below shall cancel the bail bond of the petitioner.

The application stands allowed accordingly.

The learned counsel for the petitioner is directed to remove all the defects, if any, pointed out by the office within a period of one month and the Registry is directed to issue the certified copy of this order only after removal of office objections.

**(Jitendra Kumar, J)**

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