

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41917 of 2021

Arising Out of PS. Case No.-71 Year-2020 Thana- JIRADEI District- Siwan

RADHE SHYAM SAH Son of Birendra Sah Resident of Village - Sishani
Kakarghati, P.S.- Ziradei, Distt.- Siwan, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Prashant Kumar, Advocate.

For the Opposite Party/s : Mr.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 25-04-2022 Heard learned counsel appearing on behalf of the
petitioner and learned A.P.P. for the State.

Let the defect(s), if any, be removed within two
weeks of the complete start of the physical Court in normal
course.

The petitioner seeks regular bail in connection with
Ziradei P.S. Case No. 71 of 2020 for the offence punishable
under Section 304B/34 of the Indian Penal Code.

The prosecution story, in brief, is that the informant
who is the brother of the deceased alleged that within two years
of the marriage, the petitioner along with his family members
have committed murder of his sister (deceased) by setting her on
fire. Allegation is of demand of dowry and for non-fulfillment
of the same, they committed murder. The deceased died in



course of treatment at AIIMS, Patna. Post mortem confirms the cause of death due to burn.

Learned counsel appearing on behalf of the petitioner submits that this is an accidental death and the petitioner along with his family members instead of disposing of the dead body of the deceased had taken her for treatment at AIIMS on 03.03.2020 which is a government hospital situated in Patna. The autopsy of the dead body was done by the doctors of AIIMS. The F.I.R. was lodged on 04.08.2020 after death at Hospital. The informant was aware of the fact that his sister was being treated at government hospital and the accused persons have not disposed of the body in a clandestine manner and as such no case is made out against the petitioner under Section 304B IPC. Petitioner is in custody since 27.04.2021 and he has clean antecedent.

Learned A.P.P. for the State vehemently opposed the prayer for grant of bail to the petitioner. He submits that in course of investigation, material has come against the present petitioner who is the husband of the deceased and witnesses have supported the allegation made in the F.I.R. that due to non-fulfillment of dowry, deceased was set on fire.

Having perused the allegation made in the F.I.R., the



evidences collected in course of investigation, the petitioner who is the husband of the deceased had taken his wife after she sustained burn injury to a government hospital, where the deceased was treated for 90% burn injuries, but she could not survive. The autopsy was also performed at AIIMS, Patna which is a government hospital. The informant was knowing about the cause of death. From perusal of the F.I.R., it is not clear as to what was the amount of dowry which the petitioner had illegally demanded from his father-in-law. Informant is not the eye witness of the occurrence. Submission is that the co-accused who was the father of the petitioner died in custody during the pendency of the bail application and there is no one to look after the affairs of the family. Petitioner has not only lost his wife, but at the same time, he has also faced trauma of death of his father in custody. In course of investigation, only minuscule evidence could be collected against the petitioner. The petitioner above named has, prima facie, made out a case to be released on bail.

The petitioner, above named, is directed to be enlarged on bail on furnishing bail bond of Rs.25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned ACJM-I, Siwan in connection with Ziradei P.S. Case No. 71 of 2020, subject to the following



conditions:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the Court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court.

(3) If the petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(4) If the petitioner is found involved in similar nature of offence, after his release on bail, the trial Court shall take steps to cancel his bail bonds.

(Purnendu Singh, J)

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