

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.34136 of 2022

Arising Out of PS. Case No.-85 Year-2009 Thana- CHAND District- Kaimur (Bhabua)

1. BINOD KUMAR PATHAK Son of Ram Bilas Pathak Resident of Village - Naubaat, P.S.- Chand, Distt.- Kaimur (Bhabua).
2. Birendra Kumar Pathak @ Munna Son of Ram Bilas Pathak Resident of Village - Naubaat, P.S.- Chand, Distt.- Kaimur (Bhabua).
3. Jhunna Pathak Son of Birendra Pathak Resident of Village - Naubaat, P.S.- Chand, Distt.- Kaimur (Bhabua).
4. Meera Devi W/o Birendra Kumar Pathak. Resident of Village - Naubaat, P.S.- Chand, Distt.- Kaimur (Bhabua).
5. Lalita Devi W/o Ram Bilas Pathak. Resident of Village - Naubaat, P.S.- Chand, Distt.- Kaimur (Bhabua).

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Surendra Kumar Mishra, Advocate
For the Opposite Party/s : Mr. Zainul Abedin, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 28-11-2022 Heard learned counsel for the petitioners and learned
A.P.P. for the State.

The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 302, 201 and 34 of the Indian Penal Code.

The informant alleges that his sister was married to Binod about 8-9 years ago, out of the wedlock, four children were born, further, after marriage Rs. 1 lac by way of dowry was being demanded, further, on 23.11.2009, he received an



information that his sister was burnt to death for non-fulfillment of dowry demand, further, he reached the place of occurrence and came to know that she was burnt to death on 23.11.2009 itself.

Learned counsel for the petitioners submits that petitioners are persons with clean antecedent and petitioner No. 4 and 5 are women. Learned counsel further submits that petitioners have been falsely implicated in the present case, it is next submitted that it absolutely does not stand to reason that the marriage was 8-9 years old and out of the wedlock children were born but in between these 8-9 years, no case ever came to be instituted either by the informant or the deceased alleging torture which amply demonstrates that the relationship between the deceased and her husband including the family members were cordial, it is next submitted that the deceased in her statement made before the Magistrate did not support the prosecution case, it is also submitted that police after investigation submitted final form and thereafter, the learned Trial Court took cognizance of the offence against the accused persons as such the accused persons are apprehending there arrest. Learned counsel further submits that it is not a case of dowry death, it is a case registered under Section 302 of the



I.P.C. and merely because petitioner No. 1 is the husband, the same does not call for a mechanical rejection as the police after threadbare investigation did not find the case to be true against him even, it is next submitted that it absolutely does not stand to reason that as to what materials transpired before the learned Magistrate for taking cognizance based on the police report which had not found any material during the course of investigation against the petitioners connecting them with the offence.

Learned A.P.P. for the State opposes the prayer for anticipatory bail of the petitioners but are not in a position to rebut the submissions of the learned counsel for the petitioner that the police after investigation submitted final form in favour of the accused persons including the petitioners and that marriage was 8-9 years old.

Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of the learned trial court where



the case is pending/successor court in connection with Chand
P.S. Case No. 85 of 2009 subject to the conditions as laid down
under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

HarshPandey/-

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