

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52812 of 2021

Arising Out of PS. Case No.-90 Year-2021 Thana- RANIGANJ District- Araria

Md Ahtasam @ Tosique, Son of Md. Ekram, Resident of Village- Dumariya,
Ward No. 06, P.S.- Raniganj, Dist.- Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N. K. Agrawal, Sr. Advocate Mr. Ramesh Kumar Singh
For the Opposite Party/s	:	Mr. Satyendra Narayan Singh, APP
For the Informant	:	Mr. Mritunjay Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 25-08-2022 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. N. K. Agrawal, learned senior counsel for the petitioner, Mr. Mritunjay Kumar, learned counsel for the informant, and learned APP for the State.

The petitioner seeks regular bail, who is in custody in connection with Raniganj P.S. Case No. 90 of 2021 registered for the offences punishable under Sections 302/34 of the Indian Penal Code.

As per the prosecution case, it is alleged that the marriage of the daughter of the informant was solemnized with the petitioner in the year 2004 and out of their wedlock four



children were born. It is further alleged that soon after the marriage, the victim was subjected to torture for demand of dowry and on several occasions Panchayati was also taken place. On 27/28.03.2021, in the night, all the F.I.R. named accused persons set on fire his daughter and due to which she died.

Learned senior counsel appearing on behalf of the petitioner submits that the petitioner, being the unfortunate husband of the deceased, has been made accused in this case, however, there is no eye witness to the alleged occurrence and only on the basis of suspicion the entire family members have been implicated in this case. It is next submitted that the marriage of the petitioner with the deceased was solemnized way back in the year 2004 and in a long 16 years, there had never been any complaint with regard to demand of dowry and torture and moreover the deceased had blessed with four children, who are living happily. It is next submitted that the deceased was a short tempered lady and on account of some altercation, which took place between the husband and wife, she committed suicide and save and except the circumstantial evidence, there is no material, apart from the fact that it is not a case under Section 304(B) of the Indian Penal Code wherein



Section 113 B of the Evidence Act is applicable. Learned senior counsel lastly submitted that the petitioner is in custody since 05.04.2021 and moreover after framing of the charge, the witnesses have been examined.

On the other hand, learned counsel for the informant vehemently opposes the bail application and submits that in fact the marriage was solemnized on a pressure, because in the year 2004 the petitioner was caught red handed while he was trying to commit some wrongful act with the deceased and thereafter Panchayati was held and marriage was solemnized. It is also submitted that in the year 2007 the deceased had also filed a complaint case, being Complaint case no. 182 of 2007 under Section 498A of the Indian Penal Code. It is next submitted that even four years prior to the alleged occurrence, the deceased had left her house on account of torture and thereafter Panchayati was taken place and then only she started living with the petitioner. It is lastly submitted that during the course of investigation, it has come that it was not an accidental death, but she was burnt to death.

Learned APP for the State also opposes the bail application and drawn the attention of this Court towards paragraph nos. 25 and 30 of the case diary, which would suggest



that the room of the deceased was found locked and her dead body was found near the hand pump in the courtyard.

Having regard to the submissions made on behalf of the parties and considering the materials available on record, as also the fact that there is no material available on record suggesting that the petitioner and his family members have even tried to save the deceased at any point of time nor she was taken to hospital, rather after the alleged occurrence, they were not even present at the place of occurrence, this Court is not persuaded to enlarge the petitioner on bail, for the present.

Accordingly, the prayer for grant of bail to the petitioner is rejected.

However. it is expected that the learned court below will take all the measures to conclude the trial preferably within a period of six months, failing which the petitioner would be at liberty to renew his prayer for bail.

(Harish Kumar, J)

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