

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56400 of 2021

Arising Out of PS. Case No.-242 Year-2021 Thana- MAHUA District- Vaishali

Shubham Kumar Son Of Rabindra Rai Resident Of Village - Chhatwara
Kapoor, P.S.- Mahua, District - Vaishali.

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Bela Singh

For the Opposite Party/s : Dr. Indihar Kumari

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 22-03-2022 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner seeks bail in connection with Mahua P.
S. Case No.242 of 2021, instituted for the offences under
Section 304B of the Indian Penal Code.

The learned counsel for the petitioner submits that the
petitioner is in custody since 17.04.2021, he is a person with
clean antecedent and charge-sheet has been submitted in the
case.

The learned counsel for the petitioner submits that the
informant alleges that his daughter was married to the petitioner
in December, 2020 and in the night of 15/16.04.2021 at about
1.30 A.M., he received information that his daughter died.
Accordingly, he reached the place of occurrence and found the



dead body of his daughter hanging from a ceiling fan. The informant further alleges that about 15 days back, the petitioner had taken Rs.5,00,000/- for buying a piece of land and Rs.16,000/- was given by way of dowry for purchasing a fridge. The informant thus alleges that his daughter was killed for dowry by the accused persons.

The 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 F.I.R. does not even remotely suggest that after marriage, the petitioner or his family members demanded any dowry even in form of movable or immovable property. The informant himself in the F.I.R. has stated that he had given Rs.5,00,000/- for purchasing a piece of land and Rs.16,000/- for buying a fridge. The learned counsel further submits that informant was informed about the death of the deceased when he came to the place of occurrence, he saw his daughter hanging from a ceiling fan and accordingly, the body was brought down. The learned counsel thus submits that petitioner and his family members are aware that she had committed suicide, as such, had not even touched the body of the deceased till the informant and other family members of the deceased came at the place of occurrence.



The learned counsel for the petitioner further submits that during the course of investigation, certain materials have transpired which may point towards suicide as the matriculation result of the deceased was published and she had failed in English paper and had scored very low marks as a result of which, she committed suicide. The learned counsel further submits that the marriage was not even an year old and there is no allegation that dowry was being demanded and for non-fulfilment of the same, the deceased was being tortured, but a bald, general and omnibus allegation has been alleged that the deceased was killed for non-fulfilment of dowry demand. It is submitted that in absence of any dowry demand, the death cannot be dowry death. The learned counsel draws the attention of the Court towards Paras-24, 25, 26 and 42 of the case diary wherein the statement of Ashok Paswan, Laleshwar Paswan, Raghunath Singh and Ravindra Rai has been recorded, who have stated that the deceased might have committed suicide on account of getting very low marks in the matriculation examination on account of which, she was depressed. It is further submitted that Laleshwar Paswan at Para-25 has stated that the deceased and the petitioner were living cordially. The learned counsel further draws the attention of the Court towards



Para-9 of the case diary wherein statement of Jitendra Kumar Yadav, uncle of the deceased is recorded wherein he has stated that it might be a dowry death. It is thus submitted that even the relative of the deceased has not with certainty alleged that it was a dowry death.

It is further submitted that Rohit Kumar, Suraj Kumar and Raj Kumari Devi's statement was recorded at Paras-10, 11 and 12 of the case diary, who are relative of the deceased and they have supported the prosecution case. The learned counsel thus submits that in absence of any allegation in the F.I.R. with regard to demand of dowry, the death cannot be a dowry death and when the independent witnesses have not supported the prosecution case merely because petitioner is the husband, he should not be kept behind bars. The learned counsel further submits that even the post mortem report with regard to an extent suggest that the deceased had committed suicide.

The learned A.P.P. for the State opposes the bail application, but is not able to meet the submission of the learned counsel for the petitioner as raised from the case diary.

Considering the fact that the petitioner is in custody, he is a person with clean antecedent, charge-sheet has been submitted in the case and taking into consideration the



submission made by the learned counsel for the petitioner, the petitioner, above-named, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Miss Anjali Nag, learned Judicial Magistrate, 1st Class, Vaishali at Hajipur in connection with Mahua P. S. Case No.242 of 2021.

The application stands allowed.

(Satyavrat Verma, J)

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