

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.57016 of 2021

Arising Out of PS. Case No.-121 Year-2021 Thana- BAIKUNTHPUR District- Gopalganj

Munna Sahani, Son of Chhathu Sahani, Resident of Village- Khaira Ajam,
P.S.- Baikunthpur, District – Gopalganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Indrajeet Bhushan, Advocate
For the Opposite Party/s : Mr. Mrityunjay Kumar Nirala, APP

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 14-09-2022 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.

2. Heard Mr. Indrajeet Bhushan, learned counsel for the petitioner and learned APP for the State.

3. The petitioner seeks regular bail, who is in custody in connection with Baikunthpur P.S. Case No. 121 of 2021 registered for the offences punishable under Sections 498A, 307/34 of Indian Penal Code. Later on, after investigation, charge-sheet has been submitted under Section 304(B) and other alleged Section of the Indian Penal Code.

4. The prosecution case is based on the fardbeyan of the informant alleging therein that her marriage was solemnized



in the year 2020 and soon after the marriage, she was subjected to torture for want of dowry. It is further alleged that ten days earlier, on account of some dispute, all the accused persons including the petitioner poured Kerosene oil upon her and set her ablaze. It is also alleged that local people informed her maternal family members and thereafter she was brought to hospital for treatment. She took the name of all the family members.

5. Learned counsel appearing on behalf of the petitioner submits that in fact in the evening of the 10.04.2021, while the wife of the petitioner was engaged in cooking, in the meantime, accidentally due to leakage of gas, she caught fire and the mother-in-law of the deceased, namely, Dhanawati Devi, tried her best to save her, but she also sustained burn injuries and thereafter both of them had brought to Sadar Hospital, Gopalganj for treatment. In support of his submission, the prescription of Dhanawati Devi is also brought on record by way of Annexure 3. He next submits that having considered the condition of the victim, she was referred to higher centre for better treatment, but the brothers and parents of the informant forcibly took her to Rahul Hospital, Mohammadpur. On 18.04.2021, when the petitioner and his father reached



Gopalganj to see his wife, some hot discussion took place, which turn into scuffle and when the mother of the petitioner tried to intervene, the family members of the informant pushed Dhanawati Devi from the terrace of the Rahul Hospital, due to which she died on the spot. In respect to the aforesaid incidence an F.I.R., bearing Baikunthpur P.S. Case No. 120 of 2021, has been instituted against the family members of the deceased by the petitioner.

6. Soon after the institution of Baikunthpur P.S. Case No 120 of 2021, the present case has been instituted, however, from the medical prescription, it appears that the informant had received 99 per cent of the burn injury, but surprisingly her fardbayan was recorded by the police that too without any consultation and certificate of the Doctor as to whether she is in a fit state of mind and body to give her statement. He next submits that admittedly occurrence took place on 10.04.2021 and her fardbayan was recorded on 19.04.2021, but in between the 10.04.2021 to 19.04.2021 neither the informant nor any family member has made any complaint to anyone, but just after lodging of Baikunthpur P.S. Case No. 120 of 2021, the present case has been lodged. Learned counsel for the petitioner has also drawn the attention of this Court towards the post-mortem



report, which suggests that the deceased had received 90 per cent burn injury and her entire body was covered with bandages. The post-mortem report also suggest that there was no smell of kerosene or any petrochemical substance present. He lastly submits that from the perusal of both the F.I.R., it appears that the Baikunthpur P.S. Case No. 120 of 2021 has been instituted against the family members of the informant, however, instead of taking action against them, they have been made witness in Baikunthpur P.S. Case No. 121 of 2021, which shows the mala fide action of the S.H.O., who recorded the fardbayan of the deceased. He lastly submits that the petitioner, having fair antecedent, is in custody since 20.04.2021.

7. On the other hand, learned APP for the State opposes the bail application and submits that the deceased has categorically stated that all the accused persons in furtherance of common intention, poured kerosene oil and set her ablaze on account of non-fulfillment of dowry. He further submits that the prosecution case also corroborated by the post-mortem report, as she received 90 per cent burn injury.

8. Regard being had to the submissions made on behalf of the parties and considering the facts and the materials available on record, I find force in the submission of the learned



counsel for the petitioner, inter alia, that the occurrence took place on 10.04.2021, but the fardbayan of the deceased for the first time was recorded on 19.04.2021 that too without any certificate of the Doctor as to whether she was in a fit state of mind and body to give her statement, inasmuch, as the post-mortem report suggests that she was 90 per cent burnt and her entire body was bandaged, but on the fardbayan her signature and thumb impression has been taken, which makes the entire case suspicious, let the petitioner, named above, having fair antecedent, be released on bail on furnishing bail bonds of Rs.20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Gopalganj, in connection with Baikunthpur P.S. Case No. 121 of 2021, subject to the condition that one of the bailors will be the close relative of the petitioner with further conditions which are as follows:-

(i) The petitioner will cooperate in conclusion of the trial.

(ii) He will remain present on each and every date of trial till disposal of the case.

(iii) He will not try to tamper with the evidence or intimidate the witnesses to delay the disposal of trial.



(iv) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be cancelled.

(Harish Kumar, J)

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