

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59336 of 2021

Arising Out of PS. Case No.-42 Year-2021 Thana- FULKAHA District- Araria

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1. Rajesh Rishideo S/O Krityanand Rishideo R/O Village-Laxmipur, Ward No.15, P.S-Fulkaha, District-Araria.
 2. Punita Devi W/O Rajesh Rishideo R/O Village-Laxmipur, Ward No.15, P.S-Fulkaha, District-Araria.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ramesh Kumar Singh, Advocate.

For the Opposite Party/s : Mr. Harendra Prasad, APP.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 27-09-2022 Learned counsel for the petitioner is permitted to remove defect(s), as pointed out by the office, if any, within a period of four weeks from today.

Earlier the matter was heard and bail was granted to the petitioner no. 2, vide order dated 12.04.2022 and as such, the present matter is confined only with regard to the petitioner no. 1.

Heard Mr. Ramesh Kumar Singh, learned counsel for the petitioners as well as learned Additional Public Prosecutor for the State.

The application for grant of bail to the petitioner, above named, who has been made accused and put behind the



bar in connection with Fulkaha P. S. Case No. 42 of 2021 giving rise to Sessions Trial No. 184 of 2021 registered for the offences punishable under Sections 326, 302, 201 of the Indian Penal Code.

As per the prosecution case, it is alleged that the marriage of the daughter of the informant was solemnized twenty years ago. From their wedlock, two children were born out, who were living with the deceased in her *maika*. It is also alleged that for the last three years, the petitioner, who happens to be husband of the deceased started torturing his daughter due to which the deceased was living with her parents, however, just one and a half years ago, the petitioner solemnized marriage with the petitioner no. 2. It is further alleged that on 06.03.2021 the petitioner came to Jogbani, where deceased resides and brought her to attend marriage ceremony of his cousin (sister). On 15.03.2021, the informant talked with his daughter and she informed that she will come on the next day, however, later on he received an information from his son that the deceased was set ablaze by the accused persons including the petitioner and she was referred to Forbesganj for treatment.

Learned counsel appearing on behalf of the petitioner submitted that admittedly the marriage was



solemnized twenty years ago and there has never been any demand of dowry etc. and as such, this is not a case under Section 304 (B) of the Indian Penal Code wherein the presumption of Section 113 (B) of the Evidence Act will come into play. It is also submitted that during the course of investigation, it has come that the deceased was found closed in a room, where she herself set ablaze and thereupon, on *hulla*, the nearby people came there and after breaking the door and window, she was brought out from the room and thereafter, she was referred to the hospital, however, on account of 90 percent burn injury, she died during the course of treatment. Learned counsel for the petitioners also drawn the attention of the court towards the statement of one of the independent witnesses, who disclosed that at the alleged time of occurrence, the petitioner was not present in his house. It is next submitted that even during the course of supervision, the SDPO has stated that it is a case of suicide on account of some dispute between the husband and the wife. During the course of investigation, it has come that the statement of only those witnesses, who are family members of the deceased, were recorded and the statement of no independent witnesses are there, save and except one, which has been discussed herein above. It is further submitted that since



the deceased was residing in her *maika* with her children, there was no reason or occasion to bring her at his own residence and thereafter, to commit such crime. It is lastly submitted that the petitioner is in custody since 17.03.2021, having fair antecedent and moreover, charges have already been framed.

On the other hand, learned APP for the State vehemently opposes the bail application and submits that there is specific allegation against the petitioner and petitioner being husband of the deceased, instrumental in causing of her death and moreover, the dead body was found in a maize field of a villager.

Regard being had to the submissions made on behalf of the parties and taking into account the fact that the marriage was solemnized twenty years ago and on the alleged date of occurrence, she was found in a room where she set herself ablaze by pouring kerosene oil and thereafter, her dead body was brought out from the room by breaking the door and window, apart from the fair antecedent and period of incarceration, let the petitioner, above named, 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 District and Sessions Judge, Araria in



connection with Fulkaha P. S. Case No. 42 of 2021 giving rise to Sessions Trial No. 184 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 bond will liable to be cancelled.

(Harish Kumar, J)

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