

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58230 of 2021

Arising Out of PS. Case No.-185 Year-2016 Thana- SARAIYA District- Muzaffarpur

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Ram Bhagati Mahto @ Ram Bhakti Mahto S/O Late Birja Mahto R/O
Village-Bishambherpur, P.S-Saraiya, District-Muzaffarpur.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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with
CRIMINAL MISCELLANEOUS No. 64536 of 2021

Arising Out of PS. Case No.-185 Year-2016 Thana- SARAIYA District- Muzaffarpur

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Pankaj Kumar @ Pankaj Mahto S/o Late Ram Bhagati Mahto Resident of
Village- Bishambherpur, P.S.- Saraiya, District- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 58230 of 2021)

For the Petitioner/s : Mr. Mrityunjay Kumar, Advocate.

For the Opposite Party/s : Mr. Awadhesh Kumar Singh, APP.

(In CRIMINAL MISCELLANEOUS No. 64536 of 2021)

For the Petitioner/s : Mr. Mrityunjay Kumar, Advocate.

For the Opposite Party/s : Dr.Mrityunjaya Kr.Gautam, APP.

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 21-09-2022 Learned counsel for the petitioners is permitted to

remove defect(s), as pointed out by the office, if any, within a

period of four weeks from today.

Heard Mr. Mrityunjay Kumar, learned counsel for the

petitioners as well as learned Additional Public Prosecutor for

the State.



Both the cases arise out of the same P. S. Case and as such, with the consent of the learned counsels for the parties the applications are being heard together and disposed of by this common order.

The application for grant of bail to the petitioners, above named, who have been made accused and put behind the bar in connection with Saraiya P. S. Case No. 185 of 2016 registered for the offences punishable under Sections 363, 365, 498(A)/34 of the Indian Penal Code, Sections 3 and 4 of the Dowry Prohibition Act and later on, Section 304 (B), 201, 34 of the Indian Penal Code was added.

As per the prosecution case, it is alleged that the marriage of the daughter of the informant was solemnized with the petitioner Pankaj Kumar @ Panka Mahto on 01.05.2014. Soon after the marriage, the victim was subjected to torture for non-fulfilment of demand of dowry and later on, she was ousted from the house. It is also alleged that on 03.06.2016, the informant came to know that her daughter is missing from her *Sasural* and when the informant went to the *Sasural* of her daughter, no-one was found there.

Learned counsel appearing on behalf of the petitioners submitted that petitioner in Cr. Misc. No. 58230 of



2021, Ram Bhagati Mahto @ Ram Bhakti Mahto is father-in-law and the petitioner in Cr. Misc. No. 64536 of 2021, Pankaj Kumar @ Pankaj Mahto happens to be husband of the deceased and there is no specific allegation against any of the accused persons including the petitioners. It is also submitted that prior to the alleged occurrence, there was no complaint or any information regarding demand of dowry against any of the persons. It is further submitted that from the tenor of the FIR, it is evident that the wife of the accused Pankaj Kumar @ Pankaj Mahto was found missing from the house and as such, this is not a case that she was done to death by the petitioners rather it is a case of missing. During the course of investigation, some of the witnesses, whose statements have been recorded, have categorically stated that the victim left her *Sasural* without informing anyone. It is also submitted that later on, the husband of the deceased was apprehended by the police and his confessional statement was recorded, wherein he has made confession of his complicity in the crime. Save and except the confessional statement of Pankaj Kumar @ Pankaj Mahto, there is no material showing the complicity of the petitioners in the present crime. It is last submitted that both the petitioners are in custody since 02.07.2021.



On the other hand, learned APP for the State vehemently opposes the bail application and submits that had the deceased gone missing then, it was the obligation on the part of the petitioners that they must inform the police with regard to her disappearance but this is not a case, rather it is a case that she was done to death, thereafter, her dead body was disappeared surreptitiously.

Regard being had the submissions made on behalf of the parties and considering the fact that petitioner in Cr. Misc. No. 58230 of 2021 is father-in-law of the deceased, aged about 58 years against whom there is no specific allegation and he is in custody since 02.07.2021, having fair antecedent, let the petitioner in Cr. Misc. No. 58230 of 2021 be released on bail on furnishing bail bonds of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, (West) Muzaffarpur, in connection with Saraiya P. S. Case No. 185 of 2016, 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.

So far the petitioner in Cr. Misc. No. 64536 of 2021 is concerned, who happens to be husband of the deceased and there is specific allegation against him, this court is not persuade to enlarge him on bail.

Accordingly, the prayer for bail of the petitioner in Cr. Misc. No. 64536 of 2021 stands rejected.

(Harish Kumar, J)

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