

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65857 of 2021**

Arising Out of PS. Case No.-614 Year-2020 Thana- ARARIA District- Araria

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Daud @ Daood, Son Of Nazamuddin Resident Of Village - Shyampur
Pacheli, P.S.- Palasi, Distt.- Araria. Petitioner/S

Versus

The State Of Bihar Opposite Party/s

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with

CRIMINAL MISCELLANEOUS No. 65853 of 2021

Arising Out of PS. Case No.-614 Year-2020 Thana- ARARIA District- Araria

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Masud Alam @ Masud, Son Of - Islam Resident Of Village- Bhansia Ward
No. -05, P.S.- Mahalgaon, District- Araria. Petitioner/S

Versus

The State of Bihar Opposite Party/s

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Appearance :

(In CRIMINAL MISCELLANEOUS No. 65857 of 2021)

For the Petitioner/s : Mr. Raj Kumar- Advocate

For the State : Mr. Md. Aslam Ansari- A.P.P.

For the Informant : Mr. Nafisuzzoha- Advocate

(In CRIMINAL MISCELLANEOUS No. 65853 of 2021)

For the Petitioner/s : Mr. Md. Ziaul Quamar- Advocate

For the State : Mr. Chandra Bhushan Prasad- A.P.P.

For the Informant : Mr. Nafisuzzoha- Advocate

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**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER**

3 12-05-2022

CRIMINAL MISCELLANEOUS No. 65853 of 2021

Heard learned counsel for the petitioner, learned
counsel for the informant and learned APP for the State.

The petitioner seeks bail in a case registered for the
offences punishable under Sections 304(B), 373, 201, 120(B) of
the Indian Penal Code.

The learned counsel for the petitioner submits that the
petitioner is in custody since 26.07.2021, he is a person with
clean antecedent and charge-sheet has been submitted in this
case.



The learned counsel for the petitioner submits that the informant alleges that his sister Kahkasha (deceased) was married to the petitioner about six months back. Thereafter it is alleged that after marriage, the deceased had gone to her matrimonial home once and after 10 days, the husband brought her back to her parental home. It is further alleged that petitioner along with his family members started demanding a motorcycle by way of dowry along with other articles which the informant was not in a position to fulfil.

It is next alleged that on account of non-fulfilment of dowry demand, the petitioner and his family members were torturing the deceased, both mentally and physically. It is further alleged that on 05.08.2020 at about 8.00 P.M., the petitioner along with his brother-in-law Dawood came and asked the deceased to accompany them. On 06.08.2020 at about 8.00 A.M., there was a hulla in the village that near a brick-kiln, the dead body of the deceased in a naked condition was lying. Accordingly, the informant reached the place of occurrence and saw the dead body of the deceased with marks of violence. Accordingly, it is alleged that the petitioner along with other named accused persons killed his sister.

The learned counsel for the petitioner submits that



from perusal of the allegation as alleged in the F.I.R., it would manifest that informant is not an eye witness to the occurrence. Further the deceased was staying at her parental home and it is alleged that petitioner along with Dawood came to fetch her and thereafter, the occurrence took place and the dead body was found in the village of informant itself. The learned counsel submits that it absolutely does not stand to reason that if the petitioner had any intention to kill the deceased, then definitely he would not have created any evidence against himself by coming to the house of the deceased fetching her and then killing her in her own village. The learned counsel further submits that during the course of investigation, it also transpired that the tower location of the petitioner was at Mahalgaon and the village of the petitioner is Bhansia and the tower location of the deceased was at village-Gyari, 15 kilometer away from Jhawwari, the village of the informant. The learned counsel thus submits that the distance between the Bhansia and the Jhawwari is about 5-6 kilometer and the tower location of the deceased was found at village-Gyari, which is about 15 kilometer from the house of the informant. It is thus submitted that based on the investigation of the CDR, tower location of the petitioner was found at his own village, then the allegation that the petitioner



along with his brother-in-law came to fetch the deceased and thereafter, killed her appears to be improbable.

Based on the submissions made by the learned counsel for the petitioner, the case diary was called for and the same was received.

The learned counsel further submits that from perusal of the case diary, it would manifest that the police after investigating the CDR has recorded that the petitioner had called the deceased from his mobile on her mobile on 05.08.2020 in between 7.54-8.00 P.M. and talked to her for 781 seconds. The learned counsel thus submits that if the petitioner had reached his matrimonial home on 05.08.2020 at 8.00 P.M., then where was the occasion for him to talk to his wife on mobile for 781 seconds. It is next submitted that even the tower location of the deceased and the petitioner, as aforesaid, has also been recorded in the case diary. The learned counsel thus submits that petitioner being the husband was falsely implicated and he was arrested and he was made to confess his crime when there are no eye witness to the occurrence and the entire allegation hinges around suspicion. The learned counsel very fairly submits that had the deceased died or killed in the village of the petitioner or within his house, then definitely strong



suspicion would have been arisen against him as the marriage was within seven years, but in the facts of the present case, it can be safely argued that apart from suspicion, there is nothing against the petitioner and the electronic evidence points to the contrary.

The learned counsel for the informant as well as learned A.P.P. opposes the bail application, but are not able to meet the submissions of the learned counsel for the petitioner with regard to tower location of the deceased and the petitioner. Also that there was a talk between the petitioner and the deceased for 781 seconds on 05.08.2020 and also the fact that why the petitioner along with Dawood would have created evidence against themselves by going to their matrimonial home fetching the deceased and then killing her in her own village..

Considering the fact that the petitioner is in custody, he is a person with clean antecedent, charge-sheet has been submitted in this case and taking into consideration the submissions made by the learned counsel for the petitioner based on the material which has transpired during the course of investigation as recorded in the case diary, 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 learned Court below where the case is pending in connection with Araria P. S. Case No.614 of 2020.

The application stands allowed.

CRIMINAL MISCELLANEOUS No.65857 of 2021

Heard learned counsel for the petitioner, learned counsel for the informant and learned APP for the State.

The petitioner seeks bail in a case registered for the offences punishable under Sections 304(B), 376, 201, 120(B) of the Indian Penal Code.

The learned counsel for the petitioner submits that the petitioner is in custody since 25.09.2021, he is a person with clean antecedent and charge-sheet has been submitted in this case.

The learned counsel for the petitioner submits that the informant alleges that his sister Kahkasha (deceased) was married to the Masud Alam about six months back. Thereafter it is alleged that after marriage, the deceased had gone to her matrimonial home once and after 10 days, the husband brought her back to her parental home. It is further alleged that Masud Alam along with his family members started demanding a motorcycle by way of dowry along with other articles which the informant was not in a position to fulfil.



It is next alleged that on account of non-fulfilment of dowry demand, the Masud Alam and his family members were torturing the deceased, both mentally and physically. It is further alleged that on 05.08.2020 at about 8.00 P.M., the Masud Alam along with his brother-in-law Dawood came and asked the deceased to accompany them. On 06.08.2020 at about 8.00 A.M., there was a hulla in the village that near a brick-kiln, the dead body of the deceased in a naked condition was lying. Accordingly, the informant reached the place of occurrence and saw the dead body of the deceased with marks of violence. Accordingly, it is alleged that the Masud Alam along with other named accused persons killed his sister.

The learned counsel for the petitioner submits that from perusal of the allegation as alleged in the F.I.R., it would manifest that informant is not an eye witness to the occurrence. Further the deceased was staying at her parental home and it is alleged that Masud Alam along with petitioner came to fetch her and thereafter, the occurrence took place and the dead body was found in the village of informant itself. The learned counsel submits that it absolutely does not stand to reason that if the Masud Alam had any intention to kill the deceased, then definitely he would not have created any evidence against



himself by coming to the house of the deceased fetching her and then killing her in her own village. The learned counsel further submits that during the course of investigation, it also transpired that the tower location of the Masud Alam was at Mahalgaon and the village of the Masud Alam is Bhansia and the tower location of the deceased was at village-Gyari, 15 kilometer away from Jhawwari, the village of the informant. The learned counsel thus submits that the distance between the Bhansia and the Jhawwari is about 5-6 kilometer and the tower location of the deceased was found at village-Gyari, which is about 15 kilometer from the house of the informant. It is thus submitted that based on the investigation of the CDR, tower location of the Masud Alam was found at his own village, then the allegation that the Masud Alam along with his brother-in-law came to fetch the deceased and thereafter, killed her appears to be improbable.

Based on the submissions made by the learned counsel for the petitioner, the case diary was called for and the same was received.

The learned counsel further submits that from perusal of the case diary, it would manifest that the police after investigating the CDR has recorded that the Masud Alam had



called the deceased from his mobile on her mobile on 05.08.2020 in between 7.54-8.00 P.M. and talked to her for 781 seconds. The learned counsel thus submits that if the Masud Alam had reached his matrimonial home on 05.08.2020 at 8.00 P.M., then where was the occasion for him to talk to his wife on mobile for 781 seconds. It is next submitted that even the tower location of the deceased and the Masud Alam, as aforesaid, has also been recorded in the case diary. The learned counsel thus submits that Masud Alam, being the husband, was falsely implicated and he was arrested and he was made to confess his crime when there are no eye witness to the occurrence and the entire allegation hinges around suspicion. The learned counsel very fairly submits that had the deceased died or killed in the village of the Masud Alam or within his house, then definitely strong suspicion would have been arisen against him as the marriage was within seven years, but in the facts of the present case, it can be safely argued that apart from suspicion, there is nothing against the Masud Alam and the electronic evidence points to the contrary.

The learned counsel for the informant as well as learned A.P.P. opposes the bail application, but are not able to meet the submissions of the learned counsel for the petitioner



with regard to tower location of the deceased and Masud Alam. Also that there was a talk between the Masud Alam and the deceased for 781 seconds on 05.08.2020 and also the fact that why the Masud Alam along with petitioner would have created evidence against themselves by going to their matrimonial home fetching the deceased and then killing her in her own village..

Considering the fact that the petitioner is in custody, he is a person with clean antecedent and charge-sheet has been submitted in this case and taking into consideration the submissions made by the learned counsel for the petitioner based on the material which has transpired during the course of investigation as recorded in the case diary, 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 learned Court below where the case is pending in connection with Araria P. S. Case No.614 of 2020.

The application stands allowed.

(Satyavrat Verma, J)

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