

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70255 of 2021

Arising Out of PS. Case No.-239 Year-2020 Thana- BAKHTIARPUR District- Saharsa

Md. Yunus Alam, Son of Late Abdul Quddoos, Resident of Village-
Samastipur, Ward No. 3, P.S.- Simribakhtiyarpur, District- Saharsa.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Diwakar Prasad Singh, Advocate
For the Opposite Party/s : Mr.Manoj Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 10-10-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Let the defect (s), as pointed out by the office, be removed within a period of four weeks from the date of resumption of physical filing and physical removal of defect.

In the present case, the petitioner seeks bail in connection with ST. No. 69 of 2021 corresponding to Bakhtiyarpur P.S. Case No. 239 of 2020 registered for the alleged offences under Sections 341, 323, 328, 304-B, 302 and 120(B) of the Indian Penal Code.

As per prosecution case, the daughter of the informant was killed by the petitioner and other co-accused persons by administering poison. The petitioner is the husband of the deceased.



Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. The marriage has been solemnized 17 years prior to the occurrence and this fact has been mentioned in the F.I.R. itself. Due to animosity, the petitioner has been falsely implicated by the informant after the death of her daughter. The informant put the thumb impression on the written report and it is not clear whether she understood its contents. However, her re-statement was not recorded by the police which even failed to record the statement of witnesses named in the F.I.R. All the married sisters of the petitioner have been made accused in this case and they were at their respective places of residence and were not present at the place of occurrence. The post mortem report also falsifies the prosecution story as no external injury or even a bruise was found on the body of the deceased though the allegation against the petitioner and other co-accused persons was that they assaulted the deceased and administered poison to her. Even the informant stays in the same village with her family and it is not believable that the deceased was assaulted and her family did not intervene. The children of the petitioner and the deceased were examined but their statement are not believable as the statements of the children is verbatim the same and it appears to



have been recorded by the Investigating Officer as a formality. The whole investigation was completed by the Investigating Officer in a day. There is no allegation of any mistreatment earlier either by the deceased or by the informant and no complaint has been made earlier before any authority. All other co-accused persons have been granted bail. Charge sheet has been submitted in this case and the petitioner is in custody since 28.07.2021.

Learned APP for the State opposes the prayer for bail of the petitioner. Learned APP further submits that witnesses in paragraph 7, 8, 9 and 10 of the case diary have supported the prosecution case and these witnesses include the children of the deceased.

Perused the records.

Having regard to the facts and circumstances and submission made on behalf of the parties and considering the lack of substantive material against the petitioner to connect him with the offence as alleged, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate at Saharsa in connection with Bakhtiyarpur P.S. Case No. 239 of



2020, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions:

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

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(Arun Kumar Jha, J)

