

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.1342 of 2022

Arising Out of PS. Case No.-212 Year-2020 Thana- MAKHDUMPUR District- Jehanabad

Satendra Das, S/O Chandeshwar Das Resident Of Village - Vijay Nagar
(Kanauli), P.S. - Makhadumpur (Tehta O.P.), District - Jehanabad.

... .. Petitioner/S

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bachan Jee Ojha

For the Opposite Party/s : Mr. Choubey Jawahar

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 25-05-2022 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner seeks bail in a case registered for the offences punishable under Sections 302, 201/ 34 of the Indian Penal Code.

The learned counsel for the petitioner submits that the petitioner is in custody since 12.08.2021, 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 her daughter was married in the Year 2012 with the petitioner and out of the wedlock, two children were born. Further, after marriage, the petitioner used to abuse and assault the deceased along with his parents. On 29.05.2020, her younger daughter received telephonic message from the petitioner that her sister has died on which, the informant



reached the place of occurrence, but the house was locked and she came to know that two days before, her daughter was killed by the accused persons including the petitioner and the body was disposed of. Further alleges that on account of mental disturbance on account of occurrence, the case was instituted after a considerable delay.

The learned counsel for the petitioner submits that petitioner has been falsely implicated in the present case by the informant by way of after thought for the reasons best known to him. It is next submitted that the marriage was nearly nine years and in between 6-9 years, no criminal case ever by the deceased or by the informant came to be instituted. As far as allegation of Panchayati between the parties is alleged, then no document is there on the record to substantiate the same, nor during the course of investigation any such material was collected by the Investigating Authority to connect the petitioner with the allegation of abuse and assault.

It is next submitted that even the F.I.R. also does not disclose that dowry, at any point of time after marriage, was being demanded. The learned counsel next submits that merely, being husband, does not always amount to culpability. It is next submitted that delay in instituting the F.I.R. is fatal for the



reason that the informant was made aware of the death of the deceased on 29.05.2020 through her daughter and promptly she reached the place of occurrence, then she alleges that she came to know that two days prior, her daughter was killed on account of which, she lost her mental balance, as such, the F.I.R. could not be instituted.

The learned counsel for the petitioner submits that it absolutely does not stand to reason that if the informant was not in a position to institute an F.I.R., then any family members including her daughter, who was informed by the petitioner about the death of his sister, could have informed the police at least.

The learned counsel next submits that even during the course of investigation, none of the witnesses from the village of the petitioner has been examined in order to establish that the petitioner or his family members in any manner were involved in the occurrence.

The learned counsel further submits that the police has already submitted a charge-sheet after conducting a shoddy investigation. The learned counsel submits that even the statement of the child, who is about six years of age and presently residing in the house of the petitioner, even his statement was not recorded by the police.



Learned A.P.P. opposes the bail application.

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, 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 Makhdumpur P. S. Case No.212 of 2020.

However, the petitioner shall be released only when the learned Court below is satisfied after perusing the case diary that the statement of the child has not been recorded during the course of investigation by the police. If the statement of the child has been recorded and even a remote whisper with regard to the role of the petitioner in the occurrence is alleged, the present bail order shall not be given effect.

With the aforesaid observation and direction, this application stands disposed of.

(Satyavrat Verma, J)

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