

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.12618 of 2023

Arising Out of PS. Case No.-57 Year-2021 Thana- BOCHAHAN District- Muzaffarpur

AKASH KUMAR S/o Nathu Sah R/o Village- Majhauri, P.S.- Bochahan,
Distt- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Upendra Kumar, Adv.

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

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 09-08-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

The petitioner seeks bail in connection with Session Trial No. 603 of 2022 arising out of Bochahan P.S. Case No. 57 of 2021 registered for the offence under Sections 304(B) and 34 of the Indian Penal Code.

The daughter of the informant is subjected to assault and torture on account of non-fulfillment of demand of dowry by the petitioner and others and she has finally been done to death for want of dowry.

Learned counsel appearing for the petitioner submits that the petitioner, who is of clean antecedent, is innocent and has falsely been implicated in this case merely on the ground that the petitioner happens to be husband of the deceased. He further



submits that the allegation, as alleged in the F.I.R., is false and fabricated and the petitioner has not committed any offence. He further submits that the petitioner has never demanded any dowry from the deceased and her family member nor assaulted the deceased in any manner for want of dowry. He further submits that during investigation, it has been recorded in the case diary at paragraphs 61 and 62 that no one was present in the house at the time of occurrence and even the petitioner was not present in the house. He further submits that the deceased caught fire accidentally and succumbed to the burn injuries. He further submits that the police after investigation has submitted charge-sheet in this case against the petitioner. The petitioner is rotting in judicial custody since 11.12.2021.

A report with regard to present stage of the trial has been called for by this Court vide order dated 21.07.2023 which has been received and forms part of this application at Flag-A dated 31.07.2023. On perusal thereof, it would reveal that out of 10 charge-sheet witnesses, none has been examined as of now and the case is still pending for examination of prosecution witnesses.

Learned counsel appearing for the petitioner referring to the aforesaid report submits that the trial of this case is not likely to be concluded in near future and the petitioner is languishing in judicial custody since 11.12.2021.



Learned A.P.P. for the State on the basis of material available on record and the case diary vehemently opposed the prayer for bail of the petitioner and submits that the petitioner happens to be the husband of the deceased and he is responsible of for the alleged death of the deceased.

Considering the facts and circumstances of the case and the fact that the petitioner was not present at the place of occurrence as well as the present stage of the trial as reported in the report received from the court below and also the period of incarceration, let the, above named, petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-XI, Muzaffarpur in connection with S.T. No. 630 of 2022 arising out of Bochachan P.S. Case No. 57 of 2021 with the following conditions:-

(1) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on his/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

(2) If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

And, further condition that the court below shall verify



the criminal antecedent of the petitioner and in case at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(Rajesh Kumar Verma, J)

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