

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.22866 of 2023

Arising Out of PS. Case No.-44 Year-2022 Thana- KOTWALI District- Munger

Kailash Sharma Son Of Late Hiralal Sharma Resident Of Village - Raisar,
Wishari Asthan, P.S. - Kotwali, Distt. - Munger

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjeev Ranjan, Advocate
	:	Ms. Shweta Anand, Advocate
	:	Ms. Aastha Ananya, Advocate
For the Respondent/s	:	Mr. Gulnar Begum, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

6 15-09-2023 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. Petitioner seeks bail who is in custody since 07.02.2022 in connection with Kotwali (Basudeopur O.P.) P.S. Case No. 44 of 2022, F.I.R. dated 06.02.2022 for the offences punishable under Sections 302/34 of the Indian Penal Code along with Sections 3 / 4 of the Dowry Prohibition Act.

3. According to prosecution case, the petitioner along with other co-accused persons is said to have committed murder of the sister of the informant.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent and he has falsely been implicated in the present case mainly on the ground that the



petitioner is husband of the deceased and the marriage was performed in the year 2015. He further submits that the allegation as alleged in the F.I.R. is false and fabricated and the petitioner has not demanded any dowry. He further submits that from the bare perusal of the F.I.R., there is general and omnibus allegation against all the accused persons including the petitioner and no other cogent material has come during the investigation to suggest the involvement of the petitioner in the present occurrence. He further submits that the police after investigation submitted the charge sheet under Sections 302, 304(B) and 34 of the Indian Penal Code against the petitioner.

5. Vide order dated 04.08.2023 a report was called with regard to stage of the trial. Report dated 19.08.2023 of the learned trial court reveals that charge has not been framed as yet. Learned counsel for the petitioner referring to the aforesaid report submits that in view of the report of the learned trial court, the trial is not concluded in near future. The petitioner is in custody since 07.02.2022 more than one and a half years.

6. The learned Additional Public Prosecutor has vehemently opposed the prayer for bail of the petitioner and submits that it has come during investigation that the petitioner was involved in the present crime in question and the post-



mortem report of the deceased suggest that death was due to asphyxia, caused by neck threatening.

7. Considering the aforesaid facts and and report of the learned trial court, let the petitioner, above named, 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 the learned Chief Judicial Magistrate, Munger, in connection with Kotwali (Basudeopur O.P.) P.S. Case No. 44 of 2022, subject to the following conditions:-

i. 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 absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

ii. 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.

iii. 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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