

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.52296 of 2023

Arising Out of PS. Case No.-133 Year-2022 Thana- CHORAUT District- Sitamarhi

Kamini Devi Wife of Bhogi Mahto, R/o Village Choraut Tola Verma, P.O,+P.S
Choraut, District Sitamarhi

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Sumit Kumar Jha, Advocate
	:	Ms. Riya Giri, Advocate
For the Opposite Party/s	:	Mr.Anil Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 11-10-2023 Heard Mr.Sumit Kumar Jha, learned counsel for the

petitioner and Mr.Anil Kumar, learned Additional Public

Prosecutor for the State.

2. The petitioner is apprehending her arrest in
connection with Choraut P.S. Case No.133 of 2022, FIR dated
12.07.2022 registered for the offences punishable under
Sections 302,201,34 of IPC.

3. The prosecution case, in short, is that the informant
alleges that his son, namely, Sikandar Kumar has love affair
with Jyoti Kumari. It is further alleged that on 07.07.2022 in the
night the petitioner alongwith other co-accused called his son
through mobile at a lonely place where all the accused persons
armed with variously weapons started assaulting his son.



Thereafter, co-accused Yogi Mahto and Rajesh Mahto killed after strangulation putting rope around his neck and hanged the dead body on the gate of house of the informant. The informant got information through phone by another person. The dead body was cremated before his arrival from Gujrat.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent. She has falsely been implicated in the present case. The allegation as alleged in the FIR is false and fabricated and the petitioner has not committed any offence as alleged in the FIR. The informant is not the eye witness of the alleged occurrence and merely on the basis of the suspicion the petitioner and her family members have been implicated in the present false and fabricated case. Further submits that even the dead body of the deceased has not been recovered as yet and the prosecution merely on the basis of presumption has filed the chargesheet under Section 302 of IPC against the petitioner and the petitioner is mother of co-accused, namely, Jyoti Kumari and as per allegation in the FIR, the deceased has love affair with Jyoti Kumari.

5. Learned APP for the State, on the other hand, on the basis of the material available on the record and the case diary, has vehemently opposed the prayer for anticipatory bail of



the petitioner and submits that it has come during investigation that the petitioner was involved in the present crime in question but fairly submits that there is no eye witness of the alleged occurrence and except the suspicion, no other material has come during investigation against the petitioner to suggest the involvement of the petitioner in the present occurrence even the dead body of the deceased was not recovered as yet.

6. Considering the aforesaid facts, let the petitioner, above named, in the event of her arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, 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 Chief Judicial Magistrate, Sitamarhi in connection with Choraut P.S. Case No.133 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other 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/her absence on two consecutive dates without sufficient reason, his/her bail bonds shall be cancelled by the Court below.



(II) If the petitioner tamper 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/her criminal antecedents, 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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