

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55294 of 2023

Arising Out of PS. Case No.-46 Year-2023 Thana- NAANPUR District- Sitamarhi

Kanhaiya Kumar, Male, aged about 32 Yrs, Son Of Vinay Rai, resident of
Village- Gaura, PS- Nanpur, Dist Sitamarhi

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ashhar Mustafa, Advocate
For the State	:	Mr. Lalan Kumar, APP
For the Informant	:	Mr. Amit Kumar Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE KHATIM REZA
ORAL ORDER

2 30-08-2023 Heard learned counsel for the petitioner, learned
A.P.P. for the State as well as learned counsel for the informant.

2. Learned counsel for the petitioner seeks permission
to make necessary correction in paragraph no. 1 and 5 with
regard of sections of the Indian Penal Code. Prayer is allowed.

3. The petitioner seeks bail in connection with Nanpur
P.S. Case No. 46 of 2023 dated 01.02.2023, instituted for the
offences punishable under Sections 120B, 304-B/ 34 of the
I.P.C.

4. The prosecution case, in short, is that the
informant's daughter, namely, Pushpa Kumari was married to
Kanhaiya Kumar (petitioner) and the marriage was solemnized
on 03.12.2017. Later on, her husband and other in-laws started



to demand Scorpio vehicle from her as dowry and threatened to kill her if their demand is not fulfilled. The informant's daughter informed the informant on which he went to her *sasural* and tried to pacify the matter but they refused. In the meantime, she was blessed with two children. On 30.01.2023, at about 5:00 A.M., the informant got information through a villager that his daughter has been killed by her in-laws on which he came to her *sasural* and saw the dead body of his daughter lying on *varandah* and her in-laws were preparing for cremation. Thereafter, the informant informed the police, who sent the dead body for postmortem.

5. It is submitted that with regard to allegation of dowry demand, no specific detail such as date or occasion on which such demand was made, is mentioned in the written report. It is further submitted that from bare perusal of the F.I.R., it appears that demand of dowry has been made long long ago and after that petitioner's wife (deceased) gave birth to two children. In absence of allegation of cruelty or harassment soon before the death in connection with dowry demand, the provision of Section 304-B of the I.P.C. will not be attracted. It is further submitted that the petitioner himself had given intimation of death of the deceased to the informant. However,



as per F.I.R., some other persons had informed but that person's name is not mentioned in the F.I.R. Further, it is submitted that due to financial condition of the petitioner, the deceased was unhappy and was under depression and in fit of anger she committed suicide and this fact has been corroborated by the postmortem report which clearly states that death was caused by asphyxia leading to *cardio* respiratory failure as a result of hanging produced by rope like substance. It is also submitted that there is no external injury on the body of the deceased except ligature marks. Learned counsel for the petitioner further submits that the petitioner is innocent and he has been falsely implicated in this case for demand of dowry. Learned counsel further submits that there was no demand between 2017 to 2023. Lastly, it has been submitted that the petitioner is in custody since 08.05.2023 having no criminal antecedents and charge-sheet has been submitted in the case.

6. Learned counsel for the petitioner also relied upon decision of the Hon'ble Supreme Court in the case of ***Charan Singh @ Charanjit Singh Vs. The State of Uttarakhand*** reported in ***2023 Live Law SC 341***, wherein, the Hon'ble Supreme Court has held that mere death of the deceased being unnatural in a matrimonial home within seven years of marriage



will not sufficient to convict the accused under Section 304-B and 498-A of the Indian Penal Code.

7. On the other hand, learned counsel for the informant has vehemently opposed the prayer for bail and submitted that the death is within seven years and it is the duty of husband to maintain and provide sufficient security to his wife. It is further submitted the death was due to cruelty and demand of dowry. It is submitted that the postmortem report also suggests the external injury like continuous ligature marks.

8. Learned A.P.P. has vehemently opposed the prayer for bail of the petitioner.

9. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Sub-Divisional Judicial Magistrate, Pupri, Sitamarhi, in Nanpur P.S. Case No. 46 of 2023.

10. The application stands allowed.

(Khatim Reza, J)

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