

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60332 of 2023

Arising Out of PS. Case No.-397 Year-2022 Thana- KORHA District- Katihar

MD. KASIM MD. AINUL HAQUE RESIDNET OF VILLAGE- SIMARYA
CHAKNIDHAR CHAMAPADA, PS- KORHA, DISTT- KATIHAR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bhola Prasad, Advocate

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

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 08-09-2023 Heard the parties.

2. The petitioner is in custody in connection with Korha P.S. Case No. 397 of 2022 for the offence under sections 304(B), 302, 34 of the Indian Penal Code lodged on 05.09.2022 by the informant, Mostt. Khairun Nisha.

3. As per the prosecution story, the allegation is that the informant's daughter was married to the petitioner eight years ago but was tortured for dowry and on the fateful night, came to be informed that she has been killed. Accordingly the FIR.

4. Learned counsel for the petitioner submits that in the FIR itself, the allegation has been made that the lady was married eight years ago, and 304 (B) IPC has been wrongly added.

5. Further, he has remained in custody since



05.09.2022 (as stated in paragraph 14 of the petition) and charges have been framed on 11.01.2023 though the trial has not proceeded.

6. Learned APP opposes the prayer for bail stating that a bare perusal of the learned Sessions Judge order would show that the cause of death has been assigned as '*asphyxia*' due to manual throttling.

7. Considering the submissions put forward by the learned counsels for the parties, the observation of the learned Session Judge pointing out to the cause of death, it will be appropriate that the petitioner faces trial and the charge already stands framed in January 2023, he being the husband, cannot exonerate himself from the charge that has been alleged against him, this Court is inclined not to extend him the privilege of bail, which is accordingly rejected.

8. In view of the fact that he is in custody since 05.09.2022 and charges have been framed in January 2023. It is high time that the trial Court take the trial to its logical conclusion preferably within a period of nine months.

(Rajiv Roy, J)

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