

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63129 of 2022

Arising Out of PS. Case No.-103 Year-2022 Thana- DARBHANGA District- Darbhanga

Kiran Devi, W/O Binod Mahto, Resident of Mohalla- Shubhankarpur, P.S.-
Town, District- Darbhanga

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shiv Shankar Sharma, Advocate
For the State	:	Mrs. Anita Kumari, APP
For the Informant	:	Mr. Sanjeev Kr. Jha, Advocate

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 22-02-2023 Heard learned counsel for the petitioner and learned
APP for the State as well as learned counsel for the informant.

In the present case, the petitioner seeks bail in connection with Town P.S. Case No. 103 of 2022 registered for the alleged offences under Sections 302/34 of the Indian Penal Code.

As per prosecution case, over some minor dispute, petitioner entered into a quarrel with her sister-in-law and the son of the petitioner intervened and gave a number of knife blows to the sister-in-law of the petitioner, namely, Vibha Devi, who succumbed to her injuries.

The learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case. From the FIR, it is clear that except for allegation of picking quarrel with the deceased, no overt act has been attributed to the petitioner. Informant is the mother-in-law of the petitioner and she



has not attributed overt act of assault on the petitioner. From the FIR, it is obvious that son of the petitioner stabbed a number of times the deceased and it was a brutal act on the part of the son of the petitioner for which the petitioner could not be held liable. There was no application of Section 34 of IPC as there was no pre-meditation, which is clear from the FIR itself. Due to the act of the son, petitioner, a lady has been suffering as she is in custody since 02.05.2022. Charge-sheet has been submitted in this case. The petitioner is having clean antecedent.

Learned APP as well as learned counsel for the informant vehemently oppose the submission made on behalf of the petitioner. Learned counsel for the informant submits that out of nine charge-sheet named witnesses, seven have been examined and all of them have supported the prosecution case. However, learned counsel for the informant failed to point out any overt act on the part of the petitioner except submitting that with common intention, the petitioner got the sister-in-law killed.

Having regard to the facts and circumstances and submissions made on behalf of the parties and considering the fact that no specific overt act for assault has been attributed to the petitioner and the act of assault appears to be doing of the co-accused son of the petitioner as it is apparent from the FIR and further considering the fact that the petitioner is a lady and also



considering her clean antecedent along with period of custody and submission of charge-sheet, the petitioner above named is directed to be released on bail on furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Darbhanga in connection with Town P.S. Case No. 103 of 2022, subject to the conditions mentioned in Section 437(3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.
- (ii) The petitioner will remain present on each and every date fixed by the court below.
- (iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

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