

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61398 of 2022

Arising Out of PS. Case No.-45 Year-2021 Thana- NIMACHANDPURA District- Begusarai

Rupesh Kumar Son Of Arvind Mahto R/O Village- Jagdishpur, P.S.-
Nimachandpura, District- Begusarai (Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Vimal Mahto Son Of Shankar Mahto R/O Village- Nirala Nagar, P.S.-
Ratanpur, O.P., District- Begusarai

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Digvijay Kumar Ojha, Adv.

For the Opposite Party/s : Mr. Md. Mushtaque Alam, APP.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 23-02-2023 Let the defects, if any, pointed out by the office be removed within three weeks from the date of this order, failing which the matter be listed again under the appropriate heading for necessary action.

Heard learned counsel for the petitioner and the learned APP for the State.

Petitioner seeks regular bail in connection with Nimachandpura P.S. Case No. 45 of 2021 registered for the offence punishable under Section 304(B)/34 of the Indian Penal Code.

As per the prosecution, the informant alleged that his daughter was physically and mentally tortured by her in-laws

including this petitioner on account of dowry demand. It is further alleged that his daughter's in-laws along with this petitioner killed his daughter on account of non-fulfillment of dowry demand by him.

The main submissions advanced by learned counsel Mr. Digvijay Kumar Ojha appearing for the petitioner are that in the instant matter, the alleged offence of 304(B) of the Indian Penal Code is not made out and the matter relates to *honour killing* and the same might have been committed by parental family members of the deceased on account of love marriage between the victim and the petitioner and the FIR was lodged at the instance of the victim's own brother, who is an advocate clerk and during the investigation it came out that the petitioner along with his family members were not present at the petitioner's house. Further submission is that after the death of the victim, the petitioner himself informed the parental family members of the deceased and he was also present when the inquest report was prepared which shows his bonafide role in the instant matter and after considering all these facts the learned trial Court granted anticipatory bail to all the co-accused persons.

Learned APP Mr. Md. Mushtaque Alam appearing for

the State has vehemently opposed the bail prayer and submitted that the victim died within seven months of her marriage and as per the cause of death mentioned in the *post-mortem* report, her death was due to *Asphyxia* as a result of strangulation.

Having considered the seriousness of the allegation which relates to dowry death allegedly committed by this petitioner within seven months of his marriage with the victim and admittedly the victim's body was found in the house of this petitioner and as per the *post-mortem* report, the cause of the death of the victim was opined due to *Asphyxia* as a result of strangulation/throttling, this Court is not inclined to accept the bail prayer of the petitioner. Accordingly, his prayer stands rejected.

(Shailendra Singh, J)

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