

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63916 of 2023

Arising Out of PS. Case No.-16 Year-2019 Thana- FATEHPUR District- Gaya

UPENDRA YADAV @ UPENDRA KUMAR Son of Shankar Yadav R/o vill -
Dundu, P.S. - Gurpa O.P., (Fatehpur), Distt. - Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Aryan Singh, Adv.

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

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

3 06-12-2023 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The petitioner seeks regular bail in connection with
Fatehpur (Gurpa O.P.) P.S. Case No. 16 of 2019, lodged on
11.01.2019 under Sections 304(B), 34 of the Indian Penal Code.

3. As per the prosecution case, the FIR has been
lodged against 6 named accused persons including the present
petitioner against whom the allegation is that they all killed the
sister of the informant in lieu of dowry.

4. Learned counsel for the petitioner submits that the
petitioner is innocent and has committed no offence. Counsel
also submits that in the FIR itself, it has been intimated by the
informant that the petitioner and his brother has called on
mobile to the informant about the seriousness of informant's



sister when she was admitted in Fatehpur hospital and it has been alleged that when the informant and his other family members reached, then entire family has asked to return and lock the dead body in the house and when police reached then only the door was open. Counsel further submits that the present FIR has been filed by the informant in complete stage of anger and from the contents of the FIR, it is clear that the deceased was basically ill and therefore, admitted by the petitioner and his family members in the hospital and intimation was given to the informant and his family members which has been accepted in the FIR itself.

5. Learned counsel for the petitioner submits that upon realising that FIR has been filed under wrong information then a petition has been filed by the informant before the A.C.J.M. in this case intimating that he is not interested to pursue this case and accept the compromise. Counsel also submits that not only that, the informant himself pursuing the bail of the petitioner and it transpires that, in the present bail application, it is the informant who executed the affidavit for the petitioner. Counsel further submits that case diary as well as postmortem report has been called for vide order dated 11.10.2023.



6. Learned counsel for the petitioner submits that the antecedent of the petitioner is clean and he is in custody since 04.07.2023..

7. Learned APP for the State opposes the prayer for bail of the petitioner and submits that it is a case under section 304(B) of IPC in which allegation of demand of dowry and death has been alleged to be made by the petitioner and his family members.

8. Upon going through the case diary and postmortem report annexed therein, it transpires to this Court that there is no external or internal injury find on the body of the deceased and the opinion was made reserve for the result of chemical examination.

9. In the present facts and circumstances of this case and the submissions made above, let the petitioner above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-Xth, Gaya in connection with Fatehpur (Gurpa O.P.) P.S. Case No. 16 of 2019, subject to the conditions as laid down U/s 437(3) Cr.P.C. as well as the following conditions:

(i) one of the bailor should be the family member of



the petitioner who shall provide official document to show his
bona fide;

(ii) the petitioner shall appear on each and every date
before the Trial Court and failure to do so for two consecutive
dates without plausible reason will entail cancellation of his bail
bonds by the Trial Court itself;

(iii) the petitioner shall appear before the concerned
police station every month for one year to mark attendance;

(iv) the petitioner shall in no way try to induce or
promise or threat the witnesses or tamper with the evidence,
failing which the State shall be at liberty to take steps for
cancellation of the bail bonds; and

(v) the petitioner shall desist from committing any
criminal offence again, failing which the State shall be at liberty
to take steps for cancellation of the bail bonds.

(Dr. Anshuman, J.)

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