

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61708 of 2022

Arising Out of PS. Case No.-193 Year-2022 Thana- AMAS District- Gaya

Harendra Yadav @ Vivek Kumar S/O Chandradev Yadav Resident of Village- Jhari
(Chhotkua), Bahera, P.O.- Jhari, P.S.- Amas, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance:

For the Petitioner/s	:	Mr. Rajesh Kumar Singh, Sr. Advocate Mr. Manish Kumar Singh, Advocate Ms. Akriti Aishwarya, Advocate
For the Informant	:	Mr. Dhaneshwar Prasad Gupta, Advocate Mr. Lal Bahadur Singh, Advocate
For the Opposite Party/s	:	Mr. Raj Kishor Singh, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 07-04-2023 Let the defects, if any, pointed out by the office be removed within four weeks from the date of this order, failing which the matter be listed again under the appropriate heading for necessary action.

The FSL report is produced in sealed envelope in compliance of the direction of this Court dated 23.02.2023 and the same is perused.

Heard learned senior counsel for the petitioner, learned counsel for the informant and the learned APP for the State.

Petitioner seeks regular bail in connection with Amas P.S. Case No. 193 of 2022 dated 31.05.2022 registered for the offence punishable under Sections 304(B), 201 read with Section 34 of Indian Penal Code.

As per the prosecution, the informant's daughter was killed

by this petitioner (husband of the deceased) and her in-laws over non-fulfillment of dowry demand.

The main submissions advanced by learned senior counsel for petitioner are that the alleged offence of 304B of IPC is not made out in this case as there is no allegation or evidence to suggest that the victim was subjected to any type of cruelty just before her death hence, the main ingredient to constitute the offence of 304B of IPC is lacking in the present matter and there was only one month remained in completing the seven years of marriage of the victim when her death took place. Further submission is that as per the allegation made in the FIR the accused persons including the petitioner started torturing the deceased just after the marriage but no complaint was made in respect of the said torture or dowry demand and except the present matter there is no any other case in respect of alleged dowry demand and cruelty. Further submission is that the petitioner is labourer and has been languishing in jail since 01.06.2022 and as per the *post-mortem* report, on the body of the deceased no external injury was found.

Learned counsel for the informant has vehemently opposed the bail prayer and submitted that admittedly the victim died unnatural death in the house of this petitioner and he is the husband of the deceased and during investigation the material witnesses supported the allegation made against the petitioner in

the FIR.

Having considered the submissions made by the petitioner’s counsel and mainly the facts that as per the *post-mortem* report, on the body of the deceased no external injury was found and as per the FSL report, Aluminium Phosphide also known as *Celphos* was found in the viscera of the deceased and as per the above submission no complaint or any legal action was taken against the petitioner in respect of the alleged cruelty for dowry demand before the commission of the alleged occurrence while as per the FIR the accused persons had been torturing the deceased since the time of marriage, in my opinion, the petitioner who is stated to be a labourer deserves to the privilege of bail. Accordingly, let the petitioner named above be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of concerned Court in connection with Amas P.S. Case No. 193 of 2022.

Further on this condition that the petitioner will be released after the framing of charge, if the same has not been framed.

(Shailendra Singh, J)

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