

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69713 of 2023

Arising Out of PS. Case No.-20 Year-2023 Thana- PUWAKHALI District- Kishanganj

1. Kachalu Son of Late Karim Bukh R/o vill - Dhadhibhitta, P.S. - Powakhali, Distt. - Kishanganj
2. Firoja Khatoon Wife of Kachalu R/o vill - Dhadhibhitta, P.S. - Powakhali, Distt. - Kishanganj
3. Minnat Son of Kachalu R/o vill - Dhadhibhitta, P.S. - Powakhali, Distt. - Kishanganj
4. Matabul Son of Samsuddin R/o vill - Dhadhibhitta, P.S. - Powakhali, Distt. - Kishanganj

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Amal Kumar Sinha
For the State	:	Mr. Humayou Ahmad Khan
For the Informant	:	Mr. Pankaj Kumar

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

2 07-11-2023 Heard Mr. Amal Kumar Sinha, learned counsel appearing on behalf of the petitioners and learned Additional Public Prosecutor for the State. The informant is represented by Mr. Pankaj Kumar.

2. The petitioners no. 1 and 2 are parents-in-law, whereas petitioners no. 3 and 4 are brothers-in-law of the deceased, who are apprehending their arrest in connection with Powakhali P.S. Case No. 20 of 2023, registered for the offences punishable under Sections 304(B), 302, 120(B)/34 of the Indian Penal Code.

3. The marriage of the daughter of the informant was solemnised with co-accused Md. Nazir about a year ago as per the Muslim customs. It is alleged that on account of non-



fulfillment of dowry, she was beaten to death by assaulting with iron rod by her husband and other in-laws. It is further alleged that when the informant reached to the matrimonial house of his daughter, he found that his daughter was lying dead and there were marks of beating on her chest, back and limbs.

4. It is submitted on behalf of the petitioners that the allegation levelled in the FIR is not corroborated by the post mortem report as no external injury has been found over the body of the deceased and cause of death is said to be asphyxia due to hanging, moreover, the police after investigation has not sent up the petitioners for trial and submitted final form showing them innocent. However, differing with the police report, the learned court has taken cognizance for the offences as alleged in the FIR, thus the present application. Further submission has been made that even as per the FIR, no specific allegation has been levelled against the petitioners, moreover, the accused persons who are said to be villagers and against whom there was allegation of conspiracy, they have been allowed the privilege of anticipatory bail by this Court in Cr. Misc. No. 64873 of 2023 vide order dated 19.10.2023. He lastly submits that the husband of the deceased is behind bars and the petitioners undertake that they will fully co-operative in the proceeding of the court.



5. On the other hand, learned counsel for the State as well as the informant vehemently oppose the prayer for pre-arrest bail of the petitioners and submit that the death has occurred just within a year and prior to unnatural death, there was a demand of dowry and as such the presumption of dowry death cannot be denied.

6. Regard being had to the submissions made on behalf of the parties and considering the fact that the police has submitted final form showing the petitioners as innocent, coupled with the post mortem report and the fair antecedent of the petitioners, let the petitioners abovenamed be released on bail, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Kishanganj in connection with Powakhali P.S. Case No. 20 of 2023, subject to the conditions laid down in Section 438(2) Cr.P.C. with the further condition that one of the bailors shall be the own/close family members of the petitioners.

(Harish Kumar, J)

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