

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.20502 of 2024

Arising Out of PS. Case No.-283 Year-2023 Thana- BARHARA KOTHI District- Purnia

1. Mukhtar Alam @ Mukhtar son of Abid
2. Akhtari Khatoon @ Akhtari wife of Mukhtar
3. Jafran Alam @ Jafran son of Mukhtar
4. Saddam Alam @ Md. Saddam son of Abid
all residents of Village- Sahsaal, PS- Barahara, Dist- Purnea
5. Israfil son of Late Aabid
Resident of Village- Maharpur, P.S.Udakishunganj Dist- Madhepura
6. Ibrath Khatoon @ Ibrat wife of Zaffar
resident of Village- Sigarpur Ps- Udakishunganj Dist- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Vikram Singh, Advocate

For the Opposite Party/s : Mr.Zainul Abedin, APP

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 02-04-2024 Heard Mr. Vikram Singh, learned counsel appearing
on behalf of the petitioners and Mr. Zainul Abedin, learned APP
for the State.

2. Petitioners seek pre-arrest bail in connection with
Barahara P.S.Case No.283 of 2023 registered for the offences
punishable under Sections 304(B) and 120(B) of the Indian
Penal Code .

3. As per the allegation made in the FIR, the accused
persons named therein for the alleged demand of dowry
committed murder of the daughter of the informant.



4. Mr. Vikram Singh, learned counsel appearing on behalf of the petitioners submitted that petitioner no.1 is father-in-law, petitioner no.2 is mother-in-law, petitioner nos.3 and 4 are brothers-in-law, petitioner no.5 is maternal uncle (*Mama*) of the deceased, petitioner no.6 is sister-in-law of the deceased. Learned counsel further makes it clear that the petitioner nos.5 and 6 are of another village and they have falsely been implicated in the case due to the enmity.

5. Learned counsel further submitted that so far as petitioner nos. 1 and 2 are concerned, they being the father-in-law and the mother-in-law respectively had no concern with the matrimonial affairs of the deceased, who was their daughter-in-law and co-accused is their son, who is in custody. So far as petitioner nos. 3 and 4 are concerned, they are brothers-in-law of the deceased and they are innocent.

6. Learned counsel further submitted that the ingredients of Section 304 (B) of the IPC are lacking taking into consideration any time before the FIR has been lodged, any complaint was made with respect to demand of dowry. In support of his argument, learned counsel further submitted that from very perusal of the FIR, it would appear that the elder sister of the deceased was also married with the husband of the



deceased (the son of the petitioner nos. 1 and 2), who had also died unnatural death and, thereafter, to maintain the harmony in both the family, the petitioners' side agreed to marry with the daughter of the informant and the son of petitioner nos. 1 and 2 and unfortunately, she also died.

7. Learned counsel referring to the postmortem report, which has been brought on record by way of Annexure '2' to the bail application submitted that with respect to the cause of death, the Doctor has kept the opinion reserved, however, the Doctor has found no external injury on the body though black colour liquid was found oozing from the nose and mouth of the deceased. Learned counsel submitted that the same is due to clotting of the blood, which was coming out from nose and mouth, which is natural in the case of death. No injury has been found on the skull and the Doctor has also found neck thorax to be normal and having no external injury.

8. Learned counsel in these backgrounds submitted that in absence of any allegation of demand of dowry just before the death of the deceased and, for the first time in the FIR, such allegation has been made, which is falsified on the ground that any time before the death, allegation of demand of the dowry was alleged against the petitioners. As such, the provision of



Section 304(B) of the IPC is not attracted.

9. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail to the petitioners and in support of the argument, he submitted that the object of Section 304(B) of the IPC is that in the peculiar circumstances of torture causing due to demand of dowry, it ultimately led to death of the daughter of the informant.

10. Having considered the rival submissions made on behalf of the parties and submissions made by the learned counsel appearing on behalf of the petitioners that so far as petitioner nos.5 and 6 are concerned, they are of another village and had no concern with the matrimonial affairs of the deceased and her husband though the petitioner nos. 5 and 6 are closely related to the husband of the deceased being the maternal uncle (*Mama*) and sister-in-law of the deceased. It has been informed on behalf of the petitioners that the petitioner nos.3 and 4 are brother-in-law of the deceased and the petitioner nos. 1 and 2 are father-in-law and mother-in-law respectively.

11. Considering the fact that the death has taken place in an unnatural circumstance and the opinion of the Doctor is reserved, I am of the opinion that the petitioner nos.1, 2, 3 and 4 though have pleaded that they do not have concern with the



affairs of the deceased and her husband, who is the son of the petitioner nos. 1 and 2 and own brother of the petitioner nos. 3 and 4. Also considering the fact that no demand of dowry has ever been alleged just before the death of the deceased by the informant nor in the FIR it has been said that the deceased had complained about the demand of the dowry. Considering the fact that the opinion has been kept reserved by the Doctor relating to the cause of the death and also considering the fact that the Doctor has not found any external injury on any part of the body of the deceased, it is premature to ascertain that the death can be considered to be natural.

12. Petitioner nos. 5 and 6 are directed to be released on pre-arrest bail being resident of another village, in the event of their arrest or surrender before the learned court below within a period of four weeks from today, on furnishing bail bond of Rs.10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned CJM, Purnea/concerned court, in connection with Barhara P.S. Case No.283 of 2023 subject to conditions as laid down under Section 438(2) of the Cr.P.C.

13. So far as petitioner nos. 1, 2, 3 and 4 are concerned, in view of the discussion made hereinabove, the



learned district court is directed to call for the final opinion of the Doctor and if it is found that the death is natural and not as a result either poisoning or strangulation or has been caused in unnatural circumstances, then in that case, the petitioner nos. 1, 2, 3 and 4 shall also be released on pre-arrest bail, subject to conditions as laid down under Section 438(2) of the Cr.P.C. and as the learned district court deems fit and proper.

14. With the above observation/direction, the present bail application shall stand disposed of.

(Purnendu Singh, J)

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