

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15063 of 2024

Arising Out of PS. Case No.-69 Year-2010 Thana- AMBA District- Aurangabad

Urmila Devi Wife of Mirtunjay Dubey, D/o Late Dineshwar Upadhaya
Resident of Village- Hardutta, P.O. + P.S.- Amba, District- Aurangabad
(Bihar) at present resident of Village- Banpurwa, P.O.- Tildag, P.S.- Garhwa,
District- Garhwa (Jharkhand)

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Shailesh Kumar Singh, Advocate

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

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 12-03-2024 Heard learned counsel appearing on behalf of the

petitioner and learned APP appearing on behalf of the State.

2. The accused/petitioner is named in the FIR and

appending her arrest in connection with Amba P.S. Case

No.69 of 2010 registered for the offences punishable under

Sections 326, 307 read with 34 of the Indian Penal Code

(for short 'IPC'), but, later on, Section 302 of the IPC was

added in the FIR.

3. At the outset, it is submitted that present is

the second prayer of anticipatory bail of petitioner after Cr.

Misc. No.3354 of 2011 dated 11.03.2011, under change

circumstance, as a Division Bench of this Court in Cr. Appeal



(DB) No.434 of 2014 held FIR in issue suspicious and not reliable as dying declaration.

4. The allegation against the petitioner to sprinkle kerosene oil upon informant along with named co-accused persons and put her on fire, where she received 90% burn injuries during the occurrence and subsequently, during the course of treatment, she died. The informant/victim/deceased appears herself the author of the FIR.

5. It is submitted by learned counsel appearing on behalf of the petitioner that the allegation against the petitioner is very much general and omnibus and moreover after trial, the husband of deceased against whom thrust of allegation is available, now acquitted through Criminal Appeal (DB) No.434 of 2014 dated 09.03.2018. While arguing this matter, it is submitted that though anticipatory bail petition of petitioner was rejected through Cr. Misc. No.3354 of 2011 dated 11.03.2011 but, the contention of said order appears that it was passed considering the petitioner as mother-in-law though petitioner is sister-in-law,



and, therefore, the merit as available for this petitioner was not considered while disposing aforesaid criminal miscellaneous. Learned counsel further pointed out that co-accused/mother-in-law has already acquitted after trial by learned trial court itself. It is submitted by learned counsel that the Division Bench of this Court while hearing the appeal of the husband namely, Indrajeet Upadhyaya through Criminal Appeal (DB) No.434 of 2014, held that FIR in issue is suspicious and did not find it reliable to the extent to be treated as 'dying declaration', which makes a changed circumstance for this petitioner on second occasion.

6. Learned APP while opposing the prayer for bail of the petitioner submitted that the prayer of anticipatory bail of petitioner was rejected vide Cr. Misc. No. 3354 of 2011 dated 11.03.2011 by this Court, but fairly conceded that order shows petitioner as mother-in-law.

7. Considering the aforesaid factual submissions and by taking note of contents of anticipatory bail in Cr. Misc. No. 3354 of 2011 dated 11.03.2011 and also the finding of the Division Bench of this Court passed in Criminal



Appeal (DB) No.434 of 2014, where FIR in issue was not believed as 'dying declaration' being suspicious, coupled with the fact that the petitioner is a lady of clean antecedent, accordingly, the above-named petitioner is directed to be released on bail in the event of her arrest or surrender within a period of four weeks from today, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Aurangabad in connection with Amba P.S. Case No.69 of 2010, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Chandra Shekhar Jha, J.)

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