

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19868 of 2024

Arising Out of PS. Case No.-509 Year-2023 Thana- BAHADURPUR District- Darbhanga

Afsana Khatoon D/O late Md. Moinuddin RESIDENT OF VILL-
KHARAJPUR, P.S- BAHADURPUR, DISTT- DARBHANGA

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Kedar Jha, Advocate
For the Opposite Party/s	:	Mr. Ram Bilash Roy Raman, A.P.P.
For the Informant	:	Mr. Saurav Anand, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 11-09-2024 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

2. The petitioner apprehends her arrest in connection with Bahadurpur P.S. Case No. 509 of 2023 for the offences registered under Sections 302, 328 and 34 of the Indian Penal Code.

3. Learned counsel for the petitioner submits that petitioner is a person with clean antecedent and is a woman. It is further submitted that petitioner is wife of the deceased and has been falsely implicated in the instant case by the informant, who is brother-in-law of the deceased. It is further submitted that deceased had married the petitioner about seven months back and the petitioner was living with her brother-in-law at



Darbhangha, further about four days ago the informant along with his brother-in-law Vikash Kumar came to Darbhanga from Delhi and on 19.10.2023 at about 09:00 AM, Vikash Kumar went to bring back the petitioner from her parental house. It is next alleged that when informant was near jail gate, he saw petitioner and an unknown person along with his brother-in-law on a motorcycle, thereafter, he gave a chase and reached near DMCH, Darbhanga where the accused persons including the petitioner dropped his brother-in-law and fled away. Accordingly, it is alleged that he saw the deceased stammering and thereafter, the informant went to take medicine and when he returned, he saw his brother-in-law dead. Thus, alleges based on suspicion that he was poisoned by the petitioner

4. Learned counsel for the petitioner submits that the entire allegation hinges around suspicion and during the course of investigation, it has come that the deceased had taken poison by himself. It is also submitted that it absolutely does not stand to reason that as to why the petitioner being a wife would have poisoned her husband for becoming a widow. It is further submitted that some dispute had arisen in between the husband and the wife as such, the husband in anger consumed poison. It is also submitted that had the petitioner been involved in the



occurrence then the effort would have been made to conceal the dead body i.e., the dead body would not have been sent for postmortem. It is also submitted that informant is not an eye-witness to the occurrence of poison.

5. The learned counsel appearing on behalf of the informant opposes the anticipatory bail application and submits that though informant may not be an eye-witness to the occurrence of poisoning but then there is an allegation against this petitioner of poisoning the deceased. It is also submitted that in the event, if the privilege of anticipatory bail is granted to the petitioner, the petitioner may abscond on which the learned counsel appearing on behalf of the petitioner submits that petitioner will not abscond rather will cooperate in the investigation to prove her innocence.

6. Considering the submissions made by the learned counsel appearing on behalf of the petitioner, let the petitioner, in the event of her arrest or surrender within a period of four weeks from the date of receipt of the order, shall be released on anticipatory bail on furnishing bail of Rs 25,000/- (Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate-1st Class, Darbhanga in connection with Bahadurpur P.S. Case No. 509 of



2023, subject to condition as laid down under Section 438(2) of the Cr.P.C.

7. However, in the event, if the Investigating Officer of the case files an application before the learned Trial Court bringing to its notice that petitioner despite giving assurance to this Court is not co-operating in the investigation or is not presenting herself as and when required, the learned Trial Court shall be at liberty to cancel the bail bonds of the petitioner.

8. However, at this stage, the learned counsel appearing on behalf of the informant submits that petitioner has not approached this Court with clean hands and has concealed a relevant facts that process under Section 82 Cr.P.C. was issued against her on 14.12.2023, thereafter, on 19.12.2023, the petitioner filed A.B.P. No. 1827 of 2023 but the same was permitted to be withdrawn by an order dated 22.12.2023, as process under 82 Cr.P.C. was issued earlier. It is next submitted that thereafter, again the petitioner filed the instant A.B.P. which came to be rejected and is the order impugned in the instant anticipatory bail application. It is thus submitted that since process under Section 82 Cr.P.C. was issued against the petitioner prior to her availing the remedies available in law whether it would be prudent for this Court to grant anticipatory



bail to the petitioner.

9. It is made clear that the learned Trial Court before accepting the bail bonds of the petitioner shall verify that as to whether process under Section 82 Cr.P.C. was issued against the petitioner or not on 14.12.2023 and in the event if it is found that process under Section 82 Cr.P.C. was issued against the petitioner in that event, the present anticipatory bail order shall not be given effect to and if process under Section 82 Cr.P.C. had not been issued on 14.12.2023, in that event, the anticipatory bail bonds shall be accepted.

(Satyavrat Verma, J)

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