

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24592 of 2024

Arising Out of PS. Case No.-375 Year-2023 Thana- KHAJEKALA District- Patna

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Shambhu Nath SON OF LATE BHOLA NATH RESIDENT OF VILLAGE-
CHOA LAL LANE, PS- KHAJEKALA, DIST- PATNA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shivendra Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Anuj Kumar Shrivastava, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 01-05-2024 Heard Mr. Shivendra Kumar Sinha, learned Counsel
for the petitioner and learned APP for the State.

2. The petitioner apprehends his arrest in connection with Khajekalah P.S. Case No. 375 of 2023 for the offence registered under sections 302 and 34 of the Indian Penal Code lodged on 08.09.2023 by the informant, Chandradeo Singh.

3. As per the prosecution story, the deceased was married to the petitioner in the year 2013 but was always tortured for dowry and on 08.09.2023, the deceased called and informed that her legs and hands have been tied and as they rushed to the place of occurrence, found her dead.

4. Learned Counsel for the petitioner submits that contrary to the allegation made in the F.I.R., the fact remains that because he used to care his mother, this was an issue always



between the couple. Further, her mother ultimately breathe her last and '*shraddh*' was being performed but again due to financial issue, she was full of anger and due to minor dispute between them, she locked herself in her room. The petitioner immediately dialled 112 (the emergency police number), in the presence of the police, the door was broken and every one saw her hanging with the fan.

5. His further submission is that they were blessed with twin sons and a daughter who are now residing with him and in case he goes to jail, there is no one in the family to take care of them.

6. A perusal of the bail petition shows that the postmortem has been conducted and the cause of death has been opined to be '*Aphyxia*' due to hanging.

7. Learned APP for the State, on the other hand, opposes the prayer and submits that he is the husband and there is allegation against him.

8. Though the petitioner is the husband, the entire incident has been incorporated in the anticipatory bail application from which this Court gathers an opinion that though there was issue between the couple, the unfortunate incident happened, she is no more and as per the postmortem



report, as explained in the petition, she died of '*Aphyxia*' due to hanging.

9. This Court while considering the application cannot overlook the future of the three children whose mother is now no more and if this petitioner goes to jail, they will have no one to take care of.

10. The F.I.R. has been lodged, as submitted by the learned Counsel for the petitioner, he will be co-operating in the investigation and diligently appearing in trial, do not have criminal antecedent, this Court is inclined to extend him privilege of anticipatory bail.

11. The Court concerned shall ensure that the statement made regarding cause of death in the anticipatory bail application matches with the postmortem report of the lady.

12. Let the petitioner in the event of 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. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Patna City in connection with Kahjekalah P.S. Case No. 375 of 2023 subject to condition as laid down under Section 438(2) of the Cr.P.C.



(i) one of the bailor should be the family member of the petitioner, who shall provide official document to show his *bona fide*;

(ii) the petitioner shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of his bail bond by the Trial court itself;

(iii) the petitioner shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(iv) the petitioner shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

(Rajiv Roy, J)

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