

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28300 of 2024

Arising Out of PS. Case No.-30 Year-2021 Thana- BALTHAR District- West Champaran

Akash Pandey @ Akash Kumar Pandey @ Aakash Pandey @ Akesh Pandey
son of Krishna Mohan Pandey Vill- Dhankutwa PS- Balthar District- west
champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Bimlesh Kumar Pandey, Adv.
For the State	:	Mr. Pranav Kumar, APP
For the Informant	:	Mr. Binay Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 09-08-2024 Heard Mr. Bimlesh Kumar Pandey, learned Advocate
for the petitioner and learned Additional Public Prosecutor for
the State. The informant is represented by Mr. Binay Kumar,
learned Advocate.

2. The petitioner seeks grant of regular bail in
connection with Balthar P.S. Case No. 30 of 2021, registered for
the offences punishable under Sections 304B, 201, 323, 504,
379/37 of the Indian Penal Code.

3. Based upon the written report, the prosecution



alleges that the marriage of the sister of the informant was solemnized with the petitioner on 11.12.2020. Soon after the marriage, the victim was subjected to demand of a Bullet motorcycle and on account of non-fulfilment of the same, she was tortured. It is further alleged that on 21.03.2021, this petitioner informed the informant that his sister is sick and she is being treated in a hospital at Bettiah. On the aforesaid information, the informant and his brother reached Bettiah and started moving from hospital to hospital but they could not find any trace of their sister. Finally when both the brothers reached the matrimonial house of their sister, they saw that their sister was lying dead but none of the family members of the petitioner was present. It is further alleged that in the night some of the villagers along with the father of the informant came there, in the meantime, the petitioner along with other family members also reached there and they forcibly started taking away the dead body. When the informant and others resisted, the accused persons and the villagers assaulted them. It is also alleged that the accused persons also snatched Rs.50,000/- and mobile phone.

4. Learned Advocate for the petitioner contended that the narrative made in the FIR clearly suggests that it is the



petitioner who informed the informant with regard to sudden ailment and treatment of his sister. During the course of investigation this fact has been corroborated by the independent witnesses that the deceased was taken to the doctor for her treatment. The statement of the doctor was also recorded by the Investigating Officer, as is evident at paragraph no. 42 of the case diary. The doctor has also stated that the deceased was brought to his Clinic and she was referred to higher centre for better treatment. Adverting to the aforesaid fact, it is further contended that it is not the case where the deceased was assaulted or any injury has caused to her, rather during the course of treatment she died. However, later on account of some dispute between the family members of both sides, some difference has arisen leading to filing of the present case.

5. It is further contended that funeral of the deceased has also been conducted in the presence of the informant and his family members. The FIR clearly suggests that the father of the informant and the villagers of the informant's side were also present and, as such, the allegation that they were kept confined and assaulted does not appear to be true. The allegation of snatching of Rs. 50,000/- cash and mobile phone also makes the entire prosecution case doubtful. It is further contended that in



similar set of allegation the father-in-law has been allowed bail by this Court vide order dated 11.10.2022 in Cr. Misc. No. 54506 of 2021.

6. On the other hand, learned APP for the State and the informant vehemently oppose the bail application and submit that the FIR clearly suggests that the informant and his family members were kept confined by the petitioner and his family members along with other villagers. They have also sustained injuries at the hands of accused persons and thus this fact cannot be denied that they were not allowed to lodge the FIR and the cremation has been done forcefully. It is also contended that the petitioner is the husband of the deceased and she died just within one year of the marriage and preceding to her death, there was demand of bullet motorcycle and, as such, presumption of dowry death cannot be ruled out. It is next contended that had the accused persons allowed to do the *post mortem*, the cause of death would have been cleared.

7. Regard being had to the submissions made on behalf of the parties and considering the materials collected during the course of investigation including the medical prescriptions suggesting the factum of illness of the deceased and her treatment in the different hospitals, the statement of the



independent witnesses and doctor as well as the fact that the informant and his family members along with the villagers were present at the time of cremation. Moreover, it is the petitioner who had informed the informant with regard to illness of the deceased, apart from delay in lodging of the FIR, let the petitioner, abovenamed, be released on bail on furnishing bail bonds of Rs. 25,000/- (Rupees twenty five thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M. 3rd, Bettiah, West Champaran in connection with Balthar P.S. Case No. 30 of 2021 subject to the conditions that:

(i) If the petitioner is found indulged in tampering with the evidence or intimidating the witnesses, the prosecution shall be at liberty to file an application for cancellation of his bail bonds.

(ii) one of the bailors shall be the own/close family members of the petitioner.

(iii) The petitioner will cooperate in conclusion of the trial.

(iv) He will remain present on each and every date of trial till disposal of the case.

(v) In the event of default of two consecutive dates without any cogent reason, his bail bonds will liable to be



cancelled.

(vi) The court below shall verify the criminal antecedent of the petitioner and in case, at any stage, it is found that the petitioner has concealed his criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioner. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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