

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.59311 of 2024

Arising Out of PS. Case No.-79 Year-2023 Thana- KASMA District- Aurangabad

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Ashok Kumar @ Ashok Mistry, Son of Sonu Mistry @ Sonu Sharma, R/O
Village - Pranpur, P.S. - Kasma, District - Aurangabad.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mrs.Mukul Kumari, Advocate

For the Opposite Party/s : Mr.Shyameshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

4 27-09-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. In the present case, the petitioner seeks bail in connection with Sessions Trial Nos. 70 of 2024/ 18 of 2024, arising out of Kasma P.S. Case No. 79 of 2023, registered for the alleged offences under Sections 498(A), 304(B)/34 of the Indian Penal Code.

3. As per prosecution case, the petitioner was married with the daughter of the informant and there is allegation of demanding motorcycle as dowry by the petitioner and ultimately, the daughter of the informant was killed due to non-fulfillment of demand.

4. The learned counsel for the petitioner submits that this is the second attempt of the petitioner to seek bail from this



Court as his earlier prayer for bail was rejected vide order dated 29.11.2023 passed in Cr. Misc. No. 56660/ 2023 by a Coordinate Bench of this Court. The learned counsel further submits that it is a case of suicide and there is no evidence to support any dowry demand or torturing the deceased. The informant is not an eye witness. Rather the petitioner has himself given information to the informant as well as to the police and the dead body was taken for post mortem. The post mortem report did not express any information about cause of death and viscera was preserved and, thereafter, viscera report shows it contains organochloro pesticide and this fact has been observed by the Coordinate Bench while rejecting the prayer for bail of the petitioner. The learned counsel further submits that in this case, two prosecution witnesses have been examined and they turned hostile. The witness namely, Mithilesh Sharma has stated that the petitioner had been working in his house as carpenter and during the relevant time, he received information about illness of his wife and this petitioner took his wife to the doctor and while being taken to the doctor, the wife of the petitioner died. The learned counsel further submits that the petitioner is in custody since 25.05.2023 and only two witnesses have been examined so far out of nine witnesses and there is no



likelihood of early conclusion of trial. Further, the petitioner has liability to take care of his two children. The petitioner is having clean antecedent.

5. Learned A.P.P. opposes the submission made on behalf of the petitioner. The learned APP further submits that the petitioner is the husband and allegation is of causing dowry death.

6. Having regard to the facts and circumstances of the case and submissions made here-in-above and considering the the slow pace of the trial and no likelihood of its conclusion in near future and further considering the period of custody of the petitioner along with his clean antecedent, he is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-X, Aurangabad, in connection with Sessions Trial No. 70/2024/18/2024, arising out of Kasma P.S. Case No. 79 of 2023, subject to the conditions mentioned in Section 437 (3) of the Code of Criminal Procedure and also the following conditions :

- (i) One of the bailors will be a close relative of the petitioner.



(ii) The petitioner will remain present on each and every date fixed by the court below.

(iii) In case of absence on three consecutive dates or in violation of the terms of the bail, the bail bond of the petitioner will be liable to be cancelled by the court concerned.

(Arun Kumar Jha, J)

V.K.Pandey/-

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