

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63724 of 2024

Arising Out of PS. Case No.-229 Year-2023 Thana- DHORAIYA District- Banka

Nand Kishore Yadav @ Nand Kishore Kumar Son of Pramod yadav Resident
of Village- Baratikar, P.S -Dhoraiya, Distt.- Banka

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Subhash Kumar Jha, Adv.

For the Opposite Party/s : Mr. Nawal Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

4 04-12-2024 Heard Learned Counsel for the petitioner and Learned
APP for the State.

2. The petitioner is apprehending arrest in connection
with Dhoraiya P.S. Case No. 229 of 2023 lodged on 15.08.2023,
for the offences punishable under Sections 302 & 34 of the
Indian Penal Code.

3. As per the prosecution, FIR has been lodged against
six named accused persons including the present petitioner. The
allegation has been made in the FIR that the accused persons
have assaulted the informant's daughter due to which she
sustained injury on her head and subsequently, during treatment,
she died.

4. Learned Counsel for the petitioner submits that the
petitioner is innocent and has committed no offence. Counsel



submits that admittedly, marriage has been solemnized in the year 2019 as per the FIR and death has been caused on 14.08.2023 during treatment at Bhagalpur. Counsel submits that there is no demand of dowry and it is due to this reason, section 304(B) of the IPC has not been added by the police in this case. Counsel further submits that though in the FIR, no allegation of demand of dowry is there, but subsequently, during investigation, police has added section 304(B) of the IPC and till date, no cognizance has been taken under section 304(B) of the IPC in this case. Counsel submits that the prosecution story is false.

5. Learned Counsel for the petitioner further submits that the case diary has been called for and in the case diary, the doctor who has examined the deceased (informant's daughter), post-mortem report and the inquest report clearly indicates that the death has been caused due to illness and not due to action or any act or overt act done by the petitioner or his family members. Counsel submits that the criminal antecedent of the petitioner is clean. Counsel further submits that other co-accused person has been granted anticipatory bail by this Court *vide* order dated 31.07.2024 passed in Cr. Misc. No.49939 of 2024.



6. Learned APP for the State opposes the prayer for bail of the petitioner and submits that from the case diary, particularly paragraph no.2, inquest report is there but in the inquest report, the injury has been found by the informant upon disclosure made by the witness. There was no injury found by doctor as per the inquest report. From the post-mortem report, no external injury has been found on the body of the deceased. Counsel submits that Medical Officer, Dhoraiya has indicated that the deceased (informant's daughter) has visited in the outdoor of the hospital on 08.08.2023 and taken medicine from the doctor and it was advised for ultrasound on the said date and the patient has not indicated any assault or injury with her. It also transpires from the supplementary case diary, particularly paragraph no.4, the statement of the doctor who has provided treatment to the victim. It has also been disclosed in the statement of doctor under section 161 before the police that *prima-facie*, it has been found by him that victim is suffering from some illness and it has been indicated that she has suffering from problem of vomiting. It has also been indicated by the doctor that there was no injury found on the victim's body. Counsel submits that in the CT scan, the victim was suffering from brain tumor and it was advised to consult with



Neurosurgeon.

7. As such, considering the aforesaid facts and circumstances, let the above named petitioner be released on bail, in the event of arrest or surrender before the Trial Court within a period of 4 weeks from today, on furnishing bail bond of Rs.30,000/- (Rupees Thirty Thousand) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Banka in connection with Dhoraiya P.S. Case No. 229 of 2023, subject to the conditions as laid down under Section 438(2) Cr.P.C.

(Dr. Anshuman, J)

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