

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63084 of 2023

Arising Out of PS. Case No.-565 Year-2022 Thana- MAJHAULIA District- West Champaran

Nitesh Kumar Sah @ Nikesh Kumar @ Nitesh Kumar S/O Lalan Sah R/O
Village- Jokatiya, P.S- Majhauria, Distt.- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Umesh Kumar Gupta, Advocate

For the Opposite Party/s : Mr. Dr. Indivar Kumari, APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

5 10-04-2024 Heard learned Counsel for the petitioner and
learned APP for the State.

2. The petitioner is an accused in connection with Majhauria P.S. Case No. 565 of 2022 for the offence registered under sections 304(b), 201 and 34 of the Indian Penal Code lodged on 01.08.2023 by the informant, Manju Devi.

3. As per the prosecution story, the lady was married to the Nitesh Sah but was always tortured for dowry and the allegation is that the husband is having illicit relationship with her sister-in-law, the same was protested, assaulted that led to her death. This followed the F.I.R.

4. Learned Counsel for the petitioner submits that he surrendered on 06.02.2023, is in custody since then and there is no sight of trial being conducted in near future. Further



submission is that the lady (deceased wife) died due to illness, the in-laws (the informant side) were informed, they participated in the last rites as also the function that took place, days later on 01.08.2022 (occurrence is of 17.07.2022), the F.I.R.

5. In this case, coordinate Bench had called for the case diary which is on record and as per the supervision note of the S.D.P.O. Sadar, West Champaran, Bettiah (Paragraph-52), it has been averred that the statement of families of the deceased have been participated in the last rights seems true.

6. Learned counsel for the petitioner submits that in case, relief is granted to him, he shall appear in the trial diligently so that the same is taken to its logical conclusion.

7. Learned APP for the State opposes the prayer for anticipatory bail stating that he is the husband and onus lies on him for the untimely death of the lady, and as such, he does not deserve bail.

8. A report was called for on 30.01.2024 by another coordinate Bench which is on record, and as per the said Letter No.160 dated 16.02.2024, the trial has still not commenced and summons have been issued to the accused persons after receiving the record on 09.02.2024.



9. In that circumstance, taking into account, his period of custody as also that learned counsel for the petitioner has undertaken that he will be diligently appearing in the trial, this Court deems it fit and proper to extend the privilege of bail to him.

10. 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, Bettiah, West Champaran in connection with Majhaulia P.S. Case No. 565 of 2022 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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