

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65912 of 2024

Arising Out of PS. Case No.-298 Year-2019 Thana- RIVILGANJ District- Saran

Kalawati Devi, Wife of Lagandeo Rai, Resident of Village-Saraidha, PS-
Rivilganj, District -Saran at Chapra

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Dewendra Narayan Singh, Advocate

For the Opposite Party/s : Mr. Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 27-09-2024 Heard learned counsel for the petitioner and learned
APP for the State.

2. This is the third occasion when the petitioner has approached this Court seeking pre-arrest bail in connection with Rivilganj P.S. Case No. 298 of 2019 registered for the offences punishable under Sections 498A, 363, 364 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act, later on Section 304B of the Indian Penal Code was also added. The petitioner has no criminal antecedent.

3. Earlier, this Court having considered her application in Cr. Misc. No. 30174 of 2020 refused to grant pre-arrest bail to the petitioner. The order dated 10.02.2021 passed in the said application is being reproduced hereunder:-

“Heard learned counsel for the petitioner and
Mr. Md. Fahimuddin, learned APP for the State.

The petitioner in the present case is seeking



pre-arrest bail in connection with Revilganj P.S. Case No. 298 of 2019 registered for the offences punishable under Sections 498A, 363, 364 and 304B of the Indian Penal Code and 3/4 of the D.P. Act.

Learned counsel for the petitioner submits that the petitioner is mother-in-law of the deceased and has been falsely implicated in this case. Learned counsel submits that there is no specific allegation of torture and demand of dowry against this petitioner. It is submitted that the petitioner has no criminal antecedent.

Learned APP for the State is present and has opposed the prayer for anticipatory bail of the petitioner.

Having regard to the facts and circumstances of the case, wherein this Court finds that this case is one in which the dead body of the victim was allegedly thrown in the river, the independent witnesses have stated about torture being committed upon the deceased, the dead body has shown some injuries as well and it was recovered from the river, this Court is not inclined to grant privilege of anticipatory bail to the petitioner. Prayer is, thus, refused.

In case the petitioner surrenders and prays for regular bail in the court below within a period of four weeks from today, her prayer for regular bail shall be considered on its own merit without being prejudiced by the order of this Court.

The observation with regard to surrender in the court below within a period of four weeks from today shall not be construed as granting any interim protection to the petitioner for the aforesaid period.”

4. The petitioner moved a second application vide Cr. Misc. No. 25237 of 2022 in which this Court took a view that there was no change of circumstance for a fresh consideration of the prayer for anticipatory bail, however, considering that the reasons shown were only for not surrendering in the court below, this Court observed that in case the petitioner still



surrenders and prays for regular bail in the learned court below within a period of four weeks from the said date, her prayer for regular bail shall be considered on its own merit without being prejudiced by the fact that she had not surrendered earlier within the period observed in the order dated 10.02.2021.

5. It appears that despite the said observation given by this Court, the petitioner did not surrender in the court below and no prayer for regular bail has been made.

6. After almost two years, this application has been filed afresh once again seeking privilege of pre-arrest bail in the same case.

7. Learned counsel for the petitioner has made a submission that the petitioner is an old age lady and she has been suffering some old age generated ailments. On the basis of this bald statements, he is seeking an indulgence of this Court in her third attempt.

8. Learned APP for the State has opposed the prayer and submits that filing of a third anticipatory bail application after about two years from the date of rejection of the second anticipatory bail application is nothing but a misuse of the process of the court. The petitioner has not shown her bonafides and having obtained observations in second attempt, she did not



surrender in the court below. The bald statement in the petition is a mere pretext as nothing has been stated save and except to mention about her age and some old age generated ailments. This is in the nature of a frivolous application.

9. Having heard learned counsel for the petitioner and learned APP for the State, this Court finds substance in the submission of learned APP for the State. This Court has rejected the prayer for pre-arrest bail of the petitioner on merit as back as on 10.02.2021. This Court observed that, in case the petitioner surrenders and prays for regular bail in the court below within a period of four weeks from the said date, her prayer for regular bail shall be considered on its own merit without being prejudiced by the order of this Court. This Court kept in mind that normally while rejecting the prayer for pre-arrest bail, it is not for this Court to issue any direction to the accused-petitioner. If the petitioner was apprehending her arrest, the only option left for her was to surrender and obtain regular bail which she did not do. After about one and half year, a second application was filed and this Court having considered the same refused to grant her any relief but observed that if the petitioner still surrenders and prays for regular bail in the court



below within a period of four weeks from the said date, the prayer for regular bail shall be considered without being prejudiced by the fact that she had not surrendered earlier. This seems to have embolden the petitioner in again not surrendering in the court below and praying for regular bail but to move this Court after almost two years in a third attempt to seek anticipatory bail. There cannot be a better example then this showing misuse of the process of court.

10. For the reasons stated hereinabove, this Court while dismissing this application as being frivolous imposes a cost of Rs.5,000/- (Rupees Five Thousand Only/-) upon the petitioner which will be deposited by her with Patna High Court Legal Services Authority within one month from today.

11. This application stands disposed of.

(Rajeev Ranjan Prasad, J)

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