

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.64402 of 2024

Arising Out of PS. Case No.-13 Year-2022 Thana- KHIJARSARAI District- Gaya

=====

KAMLA DEVI Wife of Late Kamdeo Bhagat Resident of Village - Utrama,
P.S.- Khizersarai, District - Gaya, Bihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Sunil Kumar Yadav, Adv.

For the Opposite Party/s : Mr.Satyendra Narayan Singh, APP.

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 18-10-2024 Heard the learned counsel for the petitioner and the
learned APP for the State.

2. The present petition has been filed for grant of regular
bail in connection with Khizersarai P.S. Case No. 13 of 2022,
registered for the offences punishable under Section 304(B) and
498(A) of the Indian Penal Code.

3. This Court finds from the records that the petitioner had
earlier approached this Court, by filing a petition for grant of
regular bail, vide Criminal Miscellaneous No. 60577 of 2022
and this Court, by an order dated 23.1.2023, had directed for
release of the petitioner on bail immediately upon the husband
of the deceased victim lady i.e. the son of the petitioner
surrendering before the learned Trial Court. Thereafter, the
petitioner had filed a modification petition, vide Criminal



Miscellaneous No. 28479 of 2023, however, the same was permitted to be withdrawn, by an order dated 10.5.2023 passed by this Court.

4. Now coming back to the present case, a bare perusal of the connected FIR shows that the informant has alleged that the accused persons including the petitioner herein, who is the mother-in-law of the deceased victim lady had conspired together and killed the deceased victim lady on account of non-fulfillment of demand for dowry. It is also alleged that the deceased victim lady was assaulted badly, resulting in her death.

5. The learned counsel for the petitioner has submitted that the petitioner is innocent, she has been falsely implicated in the present case, she is having a clean antecedent and she is languishing in custody since 20.4.2022. The learned counsel for the petitioner has further submitted that since the petitioner was found to be having no complicity in the alleged occurrence, this Court had been pleased to direct for release of the petitioner on bail upon surrender of the main accused person i.e. the son of the petitioner herein. Nonetheless, it is submitted that the police has submitted a final form dated 5.3.2023, giving clean chit to the son of the petitioner and two other co-accused persons, which has also been accepted by the learned Court of Judicial



Magistrate, 1st Class, Gaya, by an order dated 13.6.2024. Thus, it is submitted that now, there is no occasion for the husband of the deceased victim lady to surrender before the learned Trial Court, inasmuch as he has stood exonerated of the charges levelled against him. It is further submitted that there is no iota of evidence, which would suggest the complicity of the petitioner in the alleged occurrence. It is next contended that similarly situated co-accused persons have already been granted the privilege of regular bail by a coordinate Bench of this Court, vide orders dated 14.3.2024 and 20.7.2024, passed in Criminal Miscellaneous No. 17425 of 2024 and Criminal Miscellaneous No. 43544 of 2024, respectively.

6. *Per contra*, though the learned APP for the State has vehemently opposed the prayer for bail, however, he has not denied the fact that minuscule evidence is present in the case diary so as to connect the petitioner with the alleged occurrence, apart from the fact that the husband of the deceased victim lady has already stood exonerated of the charges levelled against him.

7. Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials available on



record as also considering the fact that the husband of the deceased victim lady has stood exonerated of the charges levelled against him, there is minuscule evidence qua the petitioner herein in the case diary so as to connect her with the alleged occurrence, apart from the fact that the dead body of the deceased victim lady was found near a pond and the postmortem report opines that the death had taken place on account of asphyxia as a result of drowning and moreover, similarly situated co-accused persons have already been granted the privilege of regular bail as also the petitioner is languishing in custody since about more than two years and she had in fact, on an earlier occasion, been found entitled for being released on bail, though she could not be released on account of other intervening circumstances, I deem it fit and proper to admit the petitioner to the privilege of regular bail.

8. Accordingly, the above named petitioner is directed to be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of learned ACJM IV, Gaya, in connection with Khizersarai P.S. Case No. 13 of 2022.

(Mohit Kumar Shah, J)

Ajay/-

U		T	
---	--	---	--

