

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81538 of 2023

Arising Out of PS. Case No.-384 Year-2023 Thana- SARAIYA District- Muzaffarpur

MD. ISTEKHAR S/O LATE ABID HUSSAIN R/O VILLAGE- BAREBA,
P.S- SARAIYA, DISTT.- MUZAFFARPUR.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Dharmesh Kumar, Advocate

For the Opposite Party/s : Mr.Zainul Abedin, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 6 26-04-2024 1. Heard learned Counsel for the petitioner and learned APP for the State.
2. This application, for grant of anticipatory bail, arises out of Saraiya PS case no. 384 of 2023, disclosing offences punishable under Section 304(B)/34 of the Indian Penal Code.
3. The prosecution story, as per the First Information report, is that the daughter of the informant was married to Md. Istekhar (petitioner) on 13.08.2021 as per Muslim rites and customs. After marriage, the accused persons including the petitioner herein started demanding dowry and pressurizing the informant's daughter to fulfill the demand. On 16.06.2022, the informant side gave one Bullet



motorcycle to the petitioner (husband of the deceased) but the demand of cash still persisted.

The informant has claimed that on 17.06.2023, she came to know that her daughter has been killed and the accused persons were trying to perform the last rites, clandestinely. After informing the police, the informant side arrived at the matrimonial home of the deceased and found all the accused persons absconding. Post mortem of the dead body was conducted on 18.06.2023.

4. Learned Counsel for the petitioner submits that petitioner, who is the husband of the deceased, is innocent and he has not committed any offence in the manner alleged. It is further submitted that the petitioner, after marriage, came to know that deceased was a psychiatric patient having psychiatric disorder and her behaviour was also aggressive, accordingly, she was treated by Dr. Saiyed Raja Imam Kazami on 05.03.2022, which would be evident from Annexure-2 to this petition. It is next submitted that the victim had attempted for suicide on 12.03.2023 and due to efforts of villagers, she was admitted in Hospital but during course of treatment, she died on 17.06.2023, which is evident from the death certificate of Mediwell Hospital, annexed as Annexure 4 to



this petition.

He further submits that the victim committed suicide due to psychiatric disorder and the petitioner, being the husband, has falsely been implicated in the present case with oblique motive. The petitioner is victim of circumstances, as he has not played any role in the entire allegation and this is simply a case of suicide. It is also submitted that the petitioner has not been declared as proclaimed offender as per the mandatory provision of Section 82(4) I.P.C.

5. On the other hand, learned counsel for the informant vehemently opposed the prayer for bail and submits that Annexure-2, which is the prescription of a Psychiatrist, has been manipulated by the petitioner and his mother and both of them are absconding. This fact would be evident from the video/ audio clip of the concerned doctor, whose prescription has been misused by the accused persons including the petitioner.

He further submits that the death certificate showing the cause of death as hanging, issued by Mediwell Hospital, is also suspicious and manufactured, inasmuch as the petitioner is working at Mediwell Hospital as an employee



and this fact can be ascertained from his facebook post. He next submits that after coming to know about the killing of informant's daughter, the informant side arrived at the place of occurrence and got the post mortem done on the dead body of the deceased. The cause of death opined by the doctor is strangulation. He also submits that the deceased has died in her matrimonial home within 02 years of her marriage and there is presumption against the accused persons of committing the offence under Section 113A/113B of Evidence Act. He also submits that process under Sections 82 and 83 Cr.P.C. have been issued against the petitioner. Lastly, it is submitted that the petitioner has failed to give any reasonable explanation regarding unnatural death of the victim in her matrimonial home and thereby, has failed to discharge his initial burden. Learned counsel placed reliance on a judgment of Apex Court in *Special Leave Petition (Crl.) No. 7940 of 2023 (Srikant Upadhyay & ors. v. State of Bihar and Anr.)* to submit that where warrant of arrest or proclamation is issued, the petitioner is not entitled to invoke the extraordinary power for grant of anticipatory bail.

6. I have gone through the materials available on record. From its perusal, it appears that the bail application of



the petitioner's mother has been rejected by this Court vide order dated 07.03.2024, passed in Cr. Misc. no. 75783 of 2023

7. Regard being had to the submissions made on behalf of the parties and taking into consideration the materials on record, nature of allegation and the fact that within 02 years of marriage, the daughter of the informant has died in her matrimonial home in an unnatural condition and there is a presumption under law against the accused persons as also considering the fact that anticipatory bail application of the co-accused/ mother of the petitioner has been rejected by this Court in Cr. Misc. no. 75783 of 2023 vide order dated 07.03.2024, I am not inclined to grant the privilege of anticipatory bail to the petitioner.

8. This application is, accordingly, rejected.

(Anil Kumar Sinha, J)

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