

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80976 of 2023

Arising Out of PS. Case No.-143 Year-2023 Thana- WAJIRGANJ District- Gaya

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Anwari Khatoon W/O Late Md Mustaque Shah R/O Village- Chainbigaha, P.S-
Wazirganj, Distt.- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Md. Murad Ashraf, Adv.
For the Informant	:	Mr. Shashi Kumar, Adv.
For the State	:	Mr.Md. Aslam Ansari, APP

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**CORAM: HONOURABLE MR. JUSTICE RUDRA PRAKASH
MISHRA**

ORAL ORDER

3 17-02-2024 Heard learned counsel for the petitioner and learned
APP for the State as also counsel for the Informant.

2. Perused the case diary.

3. The petitioner seeks bail in connection with
Wazirganj P.S. Case No. 143 of 2023 instituted for the offences
under Sections 304(B), 34 of the Indian Penal Code.

4. As per prosecution case, the daughter of the
Informant was set on fire by her husband and other in-laws and,
later on, she died during course of her treatment. The specific
allegation against the petitioner, who is the mother-in-law of the
deceased, is of throwing burning matchbox on the body of the
deceased and, thereafter, closing the door from the outside due
to which she sustained serious burn injuries. She was taken to



Magadh Medical Hospital, Gaya where she died in course of her treatment.

5. Learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. The petitioner is the mother-in-law of the deceased. He further submits that the petitioner resides separately from her son and she is separate in mess and means. He further submits that the petitioner has no role in the matter and she has been made victim of the circumstance. He further points out that the I.O. of this case has found that it was case of accidental fire. Learned counsel for the petitioner further submits that the husband of the deceased himself had called the Informant regarding accident and if it were the intention of the accused persons to kill the daughter of the Informant, they would not have called the Informant from his house. He further submits that in Para-7 & 8 of the case diary, there is a statement of independent witnesses who have not supported the case of the prosecution. The petitioner has no criminal antecedent and is languishing in judicial custody since 29.04.2023. He further submits that the similarly situated co-accused, namely, Musri Khatoon has already been granted bail by a Co-ordinate Bench of this Court vide order dated 08.11.2023 passed in Cr. Misc.



No. 71068 of 2023.

6. Learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner. He has submitted that there is a specific and direct allegation in the F.I.R. itself of throwing burning matchbox on the body of the deceased and, thereafter, closed the door from the outside which amounts to oral dying-declaration. He further submits that the postmortem report also supports the prosecution case. He has further stated that in Paras-17 & 18 of the case diary, the two witnesses have also fully supported the case of the prosecution of killing the deceased by burning. The postmortem report also suggests the cause of death by burning.

7. From perusal of the case diary as well as the F.I.R., it appears that that the deceased herself has given her statement that Musri Khatoon and Sarfuddin Shah caught hold the hands of the deceased, her husband Jahid Shah poured kerosene oil on her and thereafter the present petitioner threw the burning matchbox on her body due to which she sustained serious burn injury. During course of investigation, the witnesses have also supported the case of the prosecution. The postmortem report also states that the death of the deceased was caused due to burn injury.



8. Considering the entire facts and circumstances of the case as also there being serious and direct allegation against the petitioner, this Court is not inclined to grant bail to the petitioner.

9. Accordingly, the prayer for bail of the petitioner is rejected for the present. However, the petitioner is given liberty to renew his prayer for bail after framing of charge, if not already framed, before the court below.

(Rudra Prakash Mishra, J)

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