

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.83632 of 2024

Arising Out of PS. Case No.-101 Year-2024 Thana- BALIYA District- Begusarai

Sikendra Kumar @ Sikendra Sah Son of Akildev Sah Resident of Vill- Ward
No. 10, Bari Ballia, Siraja, P.S.- Barki Balia, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Vinod Kumar Seth, Advocate

For the Opposite Party/s : Mr. Ajit Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

2 11-12-2024 Heard Mr. Vinod Kumar Seth, learned counsel for
the petitioner and Mr. Ajit Kumar, learned APP for the State.

2. Petitioner apprehends his arrest in connection with
Ballia P.S. Case No. 101 of 2024 dated 24.03.2024 registered
for the offences punishable under Section 304B read with
Section 34 of the Indian Penal Code.

3. The main submissions advanced by learned
counsel appearing for the petitioner are that the petitioner
happens to be the husband of the deceased, he is not named in
the FIR and in this regard, paragraph '9', giving the details of
the named accused, of the FIR is relevant and further, as per the
FIR lodged by the brother of the deceased, the deceased was
being tortured by in-laws only and not by this petitioner and
there is specific details of the said in-laws in the FIR but no any



kind of allegation either specific or general has been levelled against this petitioner by the informant. It is further submitted that considering the allegations levelled in the FIR, the investigating officer did not make the petitioner as an accused and thereafter, the concerned Magistrate has called for an explanation from him as to why the petitioner has not been made accused, in fact, the deceased committed suicide and her cause of death was opined due to asphyxia and no external injury was found on her body and in this regard, the postmortem report of the deceased is relevant which has been filed as Annexure P/2 series with this petition. Learned counsel further submits that the petitioner is very poor person and at the time of alleged incident he was in Ludhiyana for his livelihood and he does labour work and at the worst, the offence under Section 306 of the I.P.C. may only attract in this matter.

4. Leaned APP appearing for the State submits that the instant petition for anticipatory bail is not maintainable as the petitioner is not named in the FIR and investigating officer has not made him as an accused, so, in such a situation, he has no apprehension of his arrest.

5. This court finds substance in the submissions made by learned APP as the petitioner is not named in the FIR and



there is no submission by petitioner's counsel that the investigating officer has taken step to make him as an accused in this matter or has taken step to arrest him, so, the present anticipatory bail application is not maintainable and it stands dismissed.

6. Petitioner is given a liberty to file a fresh application before the trial court, if he has sufficient reason of apprehension of his arrest in the present matter.

(Shailendra Singh, J)

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