

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85126 of 2023

Arising Out of PS. Case No.-221 Year-2012 Thana- BARUN District- Aurangabad

Pappu Paswan Son of Niranjan Paswan R/O Village- Dhanauti, P.O. Jaigovind
Nagar Makhra, P.S.- Barun, Dist.- Aurangabad, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sheojanam Paswan S/O Late Khelawan Paswan R/O Uchhkundhi, P.S.-
Daudnagar, Dist.- Auranabad, Present Address- Sakin Khaira Bind, P.S.-
Mufsil Aurangabad, Dist.- Aurangabad.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Ms. Nivedita Nirvikar, Sr. Adv. Ms. Supragya, Adv. Mrs. Shashi Priya, Adv.
For the Opposite Party/s :		Mr. Zainul Abedin, APP

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

ORAL ORDER

5 15-05-2024 Heard learned counsel for the petitioner and

learned APP for the State. Perused the case diary.

2. Learned counsel for the petitioner prays for and

is allowed to make necessary correction in Para-1 and prayer

portion of the present bail petition in course of the day.

3. The petitioner seeks bail in connection with

Complaint Case No. 687 of 2014, filed in the form of protest

petition and cognizance has been taken under Section

304(B)/302/34 of the Indian Penal Code, 1860 and is

numbered as STR No. 817/2023 / 325/2024.



4. The petitioner has earlier moved before this Court with a prayer for anticipatory bail which was rejected vide order dated 29.03.2018 passed in Cr. Misc. No. 10211 of 2018.

5. The allegation of the complainant/ informant Sheojanam Paswan is that he performed marriage of the daughter Sonam Devi with one Pappu Paswan before three years back and at the time of marriage he gave Rs.60,000/- and ornaments. After marriage his daughter was being tortured for demand of she-buffalo. He went to the matrimonial house and she complained torture by them and demand was also made. Thereafter, a Panchayati was also held to reconcile the matter and he took his daughter with him. Again his daughter went to his matrimonial house. On 27.4.2012 he received information about drowning of his daughter and recovery of the dead body from the river. Then he along with his brother went there and U.D. Case No. 2/2012 was instituted and the postmortem was done in which it concluded the death of the daughter by drowning.

6. Learned counsel for the petitioner submits that



the petitioner is innocent and has committed no offence as alleged against him and has falsely been implicated in the present case. As a matter of fact, the Complainant has earlier filed the Complaint Case No. 446 of 2012 which was forwarded to Barun Police Station for institution of F.I.R. under Section 156(3) of the Cr.P.C. and, on that basis, Barun P.S. Case No. 221 of 2012 was registered. After completion of the investigation, the I.O. submitted the Final Form as there was no sufficient evidence and not sent up the accused for trial. Thereafter, the Complainant filed protest petition and then the complaint case being Complaint Case No. 687 of 2014 was registered against the accused persons including the petitioner which has been registered as complaint case and transferred to the Court of learned Additional Chief Judicial Magistrate, VI, Aurangabad u/s 202 of the Cr.P.C. and after making enquiry, the Magisgistrate found sufficient material against the accused persons and cognizance has been taken u/s 304(B), 302/34 of the I.P.C. against all the five accused persons including the petitioner. The petitioner is the husband of the deceased. Learned



counsel for the petitioner submits that the petitioner has never demanded any dowry and never tortured her and the petitioner has been involved in this case only on the basis of suspicion. It has further been submitted that the U.D. Barun Case No. 2 of 2012 was filed by the Complainant himself mentioning therein the death of the deceased/daughter was caused by drowning. During investigation, the witnesses, who are alleged to have supported the prosecution case, have not turned up. The enquiry report as well as the postmortem report also suggest the death caused by drowning. Several witnesses who were taking bath at the time of occurrence have specifically stated that all of a sudden, the deceased got drowned. There is no direct or specific allegation of any overt act against the petitioner rather the same is general and omnibus in nature. The petitioner has no concern with the alleged occurrence. The petitioner has no criminal antecedent and is languishing in judicial custody since 21.08.2023 without any rhymes or reason.

7. Learned counsel for the petitioner again submits



that the co-accused persons who are brother-in-law, father-in-law, sister-in-law and mother-in-law of the deceased have been granted bail by a Co-ordinate Bench of this Court vide order dated 10.08.2017 passed in Cr. Misc. No. 32700 of 2017.

8. On the other hand, learned A.P.P. for the State has vehemently opposed the prayer for grant of bail to the petitioner, submitting that the petitioner is named in the F.I.R. as well as in the complaint petition and there is direct and specific allegation of killing the deceased by drowning due to non-fulfillment of dowry demand and, thus, the petitioner does not deserve bail.

9. Pursuant to the order of this Court, the learned Court below has sent its report dated 20.04.2024 stating therein that there are total 16 witnesses in the charge-sheet and, out of that, five witnesses have been examined and all of them have been declared hostile.

10. Considering the entire facts and circumstances of the case, nature of allegation, the period of custody of the petitioner, the petitioner having no criminal antecedent as



also keeping in mind the report sent by the learned Trial Court, let the petitioner, abovenamed, be released on bail, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Court below/concerned Court in connection with Complaint Case No. 687 of 2014 (STR No. 817/2023 / 325/2024), subject to the following conditions;

(i) One of the bailor(s) shall be the own/close family members of the petitioner.

(ii) The petitioner shall cooperate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present as directed by the Court and in the event of failure on two consecutive dates without sufficient reasons, his bail bond shall be liable to be cancelled by the court below.

(Rudra Prakash Mishra, J)

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