

(2021) 01 PAT CK 0077

Patna High Court

Case No: Criminal Miscellaneous No. 31777 Of 2020

Sita Devi

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: Jan. 15, 2021**Acts Referred:**

- Indian Penal Code, 1860 - Section 302, 328

Hon'ble Judges: Ahsanuddin Amanullah, J**Bench:** Single Bench**Advocate:** Raj Kishor Prasad, Mritunjay Kumar Gautam**Final Decision:** Disposed Of

Judgement

1. Heard Mr. Raj Kishor Prasad, learned counsel for the petitioner and Mr. Mritunjay Kumar Gautam, learned Additional Public Prosecutor

(hereinafter referred to as the "APP" for the State.

2. The petitioner is in custody in connection with Mufassil PS Case No. 332 of 2019 dated 03.12.2019 (G.R. No. 2993 of 2019), instituted under

Sections 328/302 of the Indian Penal Code.

3. The allegation against the petitioner, who is the wife of the deceased, is that she had administered poison to him, which was the cause of death.

4. Learned counsel for the petitioner submitted that her father-in-law, that is, the father of the deceased is the informant and in the FIR, he has stated

that the petitioner was not satisfied with her marital life with the deceased due to which she frequently used to go away to her parents' place and

in one such incident, when she had come back to the matrimonial home on 29.11.2019, though she had a six months old infant girl child, she had not

brought her and had left her with her parents. It was submitted that in the FIR there is specific allegation that the petitioner cooked the food which was consumed both by the deceased and the petitioner and thereafter they had slept and next morning on 30.11.2019, the deceased is said to have informed his father, that he had asked for a glass of water from the petitioner and she had administered poison in that due to which he was feeling unwell. It was further alleged that the informant and other family members looked for the petitioner but she was not found as she had run away.

Learned counsel submitted that in the re-statement of the informant to the police he has completely changed the sequence of events. It was submitted that in such re-statement the allegation is that the petitioner had cooked for herself and the deceased and both of them had eaten at night and in the night itself the deceased felt unwell and next morning he had informed his father, that after having food he was feeling unwell and had asked the petitioner to give him medicines, and under the pretext of giving medicines she had given him poison. Learned counsel submitted that such is a complete variance for the reason that the forensic report discloses presence of sulphas, which is a common pesticide kept in the house of a farmer. It was submitted that had the petitioner given the deceased water laced with sulphas there would have been strong smell of the same and it is not expected that anybody would drink water from which such strong smell is coming. It was further submitted that sulphas is the most common pesticide kept in the house of farmer and everybody is aware of its smell and, thus, it cannot be accepted that a glass of water in which there is sulphas would go undetected by smell so that any person may unknowingly drink it. Learned counsel submitted that the petitioner has a six months old infant girl child at the relevant point of time and, thus, from this point of view also it is unbelievable that she would commit such a crime, where she kills her husband knowing fully well that being the mother of an infant child, all the doors for her are shut and also that by killing her husband she would be putting an end to her support. Learned counsel submitted that there may be an occasion where there was matrimonial discord between the parties, which is more apparent in the facts and circumstances of the case, and due to such matrimonial discord, the deceased may have consumed sulphas and committed

suicide and the petitioner could not have done so because the deceased would have known that water had sulphas. It was further submitted that there is no witness to the incident and the allegation is that the deceased had told his father with regard to the petitioner administering him water in which there was poison. It was submitted that the petitioner besides being a lady is in custody since 03.12.2019 with an infant female child.

5. Learned APP, from the case diary, submitted that the forensic report discloses presence of the poison sulphas in the viscera, which is alleged to have been given to the deceased by the petitioner. However, he did not dispute that in the re-statement, a different sequence of events has been narrated by the informant. Further he did not controvert the fact that nobody has claimed to be witness to the crime of the petitioner administering poison to the deceased.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned CJM, Munger in Mufassil PS Case No. 332 of 2019, subject to the conditions that she will cooperate with the Court. Failure to cooperate shall lead to cancellation of her bail bonds.

7. The application stands disposed off in the aforementioned terms.