

(2021) 05 PAT CK 0090

Patna High Court

Case No: Criminal Miscellaneous No. 34668 Of 2020

Punam Kumari And ors

APPELLANT

Vs

State Of Bihar

RESPONDENT

Date of Decision: May 25, 2021**Acts Referred:**

- Indian Penal Code, 1860 - Section 120B, 304B, 306
- Code Of Criminal Procedure, 1973 - Section 438(2)

Hon'ble Judges: Ahsanuddin Amanullah, J**Bench:** Single Bench**Advocate:** Harish Kumar, Bal Mukund Prasad Sinha**Final Decision:** Disposed Of

Judgement

1. The matter has been heard via video conferencing.
2. Heard Mr. Harish Kumar, learned counsel for the petitioners and Mr. Bal Mukund Prasad Sinha, learned Additional Public Prosecutor (hereinafter referred to as the "APP"™) for the State.
3. Learned counsel for the petitioners submitted that he may be permitted to add the alias name of petitioner no. 2 in the cause title and it may be read as Rajnish Kumar @ Rajnish Thakur.
4. Prayer allowed.
5. Let, in the cause title, in the name of the petitioner no. 2, after Rajnish Kumar, the alias Rajnish Thakur be added.
6. The petitioners apprehend arrest in connection with Bhagwanpur Hat PS Case No. 06 of 2020 dated 07.01.2020, instituted under Sections

304B/120B of the Indian Penal Code.

7. The petitioner no. 1 is the unmarried Nanad (sister-in-law); petitioners no. 2 and 3 are Dewars (brothers-in-law) and petitioner no. 4 is the mother-in-law of the deceased, and the allegation is that they had killed the deceased by strangulating her.

8. Learned counsel for the petitioners submitted that in the FIR, which has been lodged by the brother of the deceased, with ulterior motive, the year

of marriage has not been mentioned, which took place in the year 2010, whereas the incident had occurred on 05.01.2020 i.e., almost after 10 years

and, thus, the very lodging of the FIR under Section 304-B is totally erroneous. It was submitted that even otherwise, it is quite unbelievable that for 10

years, right from the beginning, there would be demand of motorcycle and even if it is so assumed, at least the petitioners no. 1, 2 and 3 were aged

only 13 years, 11 years and 8 years at the relevant time and could not have had any role in such demand. It was submitted that if such an extreme

step was to be taken by the entire family, they would not have waited for 10 years and furthermore, that there was a girl child aged 5 years and, thus,

all the more they would not wait for a child to be born and then after 5 years, take such step, knowing fully well that a young child needs a caretaker

and, thus, there was no occasion for them to kill the mother. Learned counsel submitted that the police after investigation did not find it a case of

murder and, thus, charge-sheet was submitted only under Sections 306/34 of the Indian Penal Code and the Court has also taken cognizance under

such sections. Learned counsel submitted that even if it is assumed that there was any role of any other person in the suicide, it is the husband who

has to explain as he was living with the deceased and further that even the demand of motorcycle obviously was only for the benefit of the husband

and the other family members i.e., the petitioners have no concern with that. Learned counsel submitted that the post-mortem report, copy of which

has been brought on record, does not disclose any ante-mortem injury on any part of the body, except for there being a ligature mark on the neck and

death is said to have occurred due to asphyxia caused by hanging. Thus, it was submitted, that nobody else was instrumental in the hanging of the

deceased as otherwise there would have been some mark on the body to indicate resistance, which has not been found. It was submitted that the

petitioners do not have any criminal antecedent. It was further submitted that the husband of the petitioners is in custody.

9. Learned APP submitted that the petitioners being in the house have a role in creating such a situation where the deceased was forced to take the

extreme step, even if it is believed that the same was a case of suicide and, thus, they cannot plead innocence. However, he could not controvert that

no ante-mortem injury on any part of the body has been found. He submitted that there is a five years old girl child and the petitioners have to take

responsibility so that she is not tortured or no wrong happens to her and her safety and wellbeing is assured.

10. On this, learned counsel for the petitioners intervened and submitted that the petitioners take full responsibility for the wellbeing and proper

upbringing and education of the daughter of the deceased and that they shall give full love and affection to the child so that she does not miss her

mother.

11. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender

before the Court below within six weeks from today, the petitioners be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five

thousand) each with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Siwan in Bhagwanpur Hat

PS Case No. 06 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, (i) that one of the

bailors shall be a close relative of the petitioners and (ii) that the petitioners shall co-operate with the police/prosecution and the Court. Failure to co-

operate shall lead to cancellation of their bail bonds.

12. Further, as has been assumed by learned counsel for the petitioners, they shall also be responsible for ensuring the wellbeing and proper education

and upbringing of the daughter of the deceased and that she would be given her due place in the family and would also be given her due share in all

the movable and immovable assets of her father.

13. It shall also be open for the prosecution to bring any violation of the foregoing conditions of bail by the petitioners, to the notice of the Court

concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioners.

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