Vinod Ram Vs State Of Bihar

Court: Patna High Court

Date of Decision: Aug. 17, 2021

Acts Referred: Indian Penal Code, 1860 â€" Section 34, 304B
Code Of Criminal Procedure, 1973 â€" Section 438(2)

Hon'ble Judges: Ahsanuddin Amanullah, J

Bench: Single Bench

Advocate: Uday Kumar, Ajay Kumar Jha

Final Decision: Disposed Of

Judgement

1. The matter has been heard via video conferencing.

2. The case has been taken up out of turn on the basis of motion slip filed by learned counsel for the petitioner on 09.08.2021, which was allowed.

3. Heard Mr. Uday Kumar, learned counsel for the petitioner and Mr. Ajay Kumar Jha, learned Additional Public Prosecutor (hereinafter referred to

as the Ã¢â‚¬ËœAPPÃ¢â‚¬â„¢) for the State.

4. The petitioner apprehends arrest in connection with Sitamarhi PS Case No. 261 of 2020 dated 25.05.2020, instituted under Sections 304(B)/34 of

the Indian Penal Code.

5. The allegation against the petitioner, who is the brother of the husband of the deceased, and others is of killing her due to non-fulfilment of demand

of motorcycle as dowry.

6. Learned counsel for the petitioner submitted that it was his brother, who is the husband of the deceased, who had informed the informant, who is

the brother of the deceased, on 24.05.2020 at 6 PM in the evening that the deceased had run away from the house and, thereafter, when the

informant reached the matrimonial home, upon search, next morning at 6 AM body of the deceased was found in a pond on which there was scratch

on the right eye and above the left eye there was swelling. It was submitted that only on suspicion the present case has been lodged as there was no

occasion for the petitioner to demand a motorcycle as it could have been used only by the husband of the deceased. Further, it was submitted that the

marriage had taken place about two years prior to the incident. Learned counsel submitted that the fact is that that the informant himself accepts that

the husband of the deceased had called to inform that the deceased had gone away, which indicates that there was some difference between the

couple due to which she had run away, and the petitioner had no role and further that the deceased had either committed suicide or could have met

with an accident, for the injuries indicate that it could result from a fall also. Learned counsel submitted that the post-mortem discloses cardio

respiratory failure, without any other injury found on the body, except for what has been stated in the FIR, as has been noted in the order of the

learned Additional Sessions Judge-IV, Sitamarhi in order dated 18.08.2020 in ABP No. 661 of 2020, by which the prayer of anticipatory bail of the

petitioner was rejected. It was submitted that the petitioner has no other criminal antecedent.

7. Learned APP submitted that the death occurred within two years of marriage when the deceased was in the matrimonial home and, thus, there is a

presumption in law of foul play. Further, it was submitted that the petitioner being the brother of the husband of the deceased cannot shirk from the

responsibility of the deceased being killed by his brother due to non-fulfilment of demand for a motorcycle.

8. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the fact that husband of the

deceased had informed the informant about the deceased having run away indicates that there may have been some issue between the couple and

further that the body being recovered the next morning from the pond only with one scratch on the right eye and one lump above the left eye, does not,

prima facie, show that there was involvement of any other person or it was murder, as it could have resulted from fall also. Thus, taking an overall

view of the matter, the Court is persuaded to allow the prayer for pre-arrest bail.

9. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, 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 Chief Judicial

Magistrate, Sitamarhi in Sitamarhi PS Case No. 261 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 petitioner and (ii) that the petitioner shall co-operate with the Court and

police/prosecution. Failure to cooperate shall lead to cancellation of his bail bonds.

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

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

11. The petition stands disposed of in the aforementioned terms.