

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
CRIMINAL MISCELLANEOUS No.6994 of 2021**

Arising Out of PS. Case No.-70 Year-2020 Thana- ASANWA District- Siwan

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1. Laxman Yadav, aged about 45 years (M), S/o Late Swaminath Yadav
  2. Arun Kumar Yadav @ Arun Yadav, aged about 24 years (M), S/o Laxman Yadav

Both R/o village- Moglanipur, P.S.- Assaon, District- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s	:	Mr. P K Shahi, Senior Advocate with Mr. Ajay Kumar Pandey, Advocate
For the State	:	Mr. Nagendra Prasad, APP
For the Informant	:	Mr. Ramchandra Sahani, Advocate

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH  
ORAL JUDGMENT**

**Date : 02-09-2021**

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 petitioners, which was allowed.

3. Heard Mr. P K Shahi, learned senior counsel along with Mr. Ajay Kumar Pandey, learned counsel for the petitioners; Mr. Nagendra Prasad, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Ramchandra Sahani, learned counsel for the informant.

4. The petitioners apprehend arrest in connection with Assaon PS Case No. 70 of 2020 dated 21.06.2020, instituted



under Sections 498A/304B/120B/34 of the Indian Penal Code and 3/4 of the Dowry Prohibition Act, 1961.

5. The allegation against the petitioners is that they, along with other family members of the husband of the deceased, had killed by assaulting her and then strangulating her to death.

6. Learned counsel for the petitioners submitted that the petitioner no. 1 is the cousin father-in-law of the deceased and petitioner no. 2 is his son. It was submitted that in the FIR itself this fact has been accepted. Learned counsel submitted that the petitioners have their separate house, which is at some distance from the matrimonial house of the deceased where she lived and where death occurred. In support thereof, learned counsel drew the attention of the Court to the Ration Cards of the petitioners and family of the husband of the deceased which indicates that the house number of the matrimonial home of the deceased is 30 whereas the house number of the petitioners is 20.

7. Learned counsel also drew the attention of the Court to Annexure-3, which is copy of the birth certificate of the son of the deceased, whose name is mentioned in the FIR, that is, Amrit Raj, which discloses that he was born on 02.08.2010.



Learned counsel submitted that this being an official record issued in the year 2012, clearly falsifies the claim in the FIR that the marriage took place seven years prior to the death, which occurred on 20.06.2020. Thus, it was submitted that in any view of the matter, offence under Section 304B of the Indian Penal Code cannot be made out as the marriage, obviously, took place sometime in the year 2009 i.e., almost 11 years prior to the incident.

8. Learned counsel submitted that the allegation that because the family of the informant had not given four-wheeler at the time of marriage, the petitioner no. 1 was angry with him, is also falsified for the reason that the petitioners and family of the husband of the deceased would not be expected to wait for 11 years of marriage and 10 years of the birth of her son, to finally kill her for not bringing as dowry a four-wheeler. It was submitted that the Court would not lose of the ground reality and practical aspect where the entire family members of the in-law's family are made accused and in the present case, the link is obvious, as it has been stated that the petitioner no. 1 had acted as guardian at the time of marriage. Learned counsel submitted that since the father of the husband of the deceased had died, the petitioner no. 1 had taken lead during the marriage,



being the senior on the side of the husband of the deceased. Learned counsel submitted that in the post-mortem, only a ligature mark has been found around the neck to indicate hanging, but no other injury on the body has been detected, which also falsifies the allegation that the deceased was brutally assaulted, especially on the chest, and there was no injury mark. Summing up his arguments, learned counsel submitted that the petitioners have no other criminal antecedent.

9. Learned APP submitted that as per the FIR, the petitioners were also party to demand of four-wheeler and because of non-fulfillment, she has been killed by all the accused, including the petitioners.

10. Learned counsel for the informant submitted that death having occurred due to strangulation, the role of the petitioners cannot be ruled out as the petitioner no. 1 was the person instrumental in getting the marriage solemnized. However, he could not controvert that from the date of birth of the grandson of the informant, who is the son of the deceased, the marriage had taken place in the year 2009, as also that the petitioners' house is far separated from the matrimonial house of the deceased, especially in view of copies of documents which have been brought on record in the present case.



11. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, in view of there being reliable material to indicate that the son of the deceased was born in the year 2010 and also incorrect statement having been made in the FIR that the marriage took place seven years prior to the date of incident which is June, 2010 as also that in the FIR itself the role of the petitioner no. 1 indicated is that he was the person who was instrumental in getting the marriage fixed and petitioner no. 2 is his son and they having no criminal antecedent as also no mark of any injury on the body having been found on the deceased except for ligature mark on the neck, the Court is persuaded to allow the prayer for pre-arrest bail .

12. Accordingly, 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 S.D.J.M., Siwan in Assaon PS Case No. 70 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



cooperate with the Court and the police/prosecution. Failure to cooperate shall lead to cancellation of their bail bonds.

13. It shall also be open for the prosecution to bring any violation of the foregoing conditions 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 petition stands disposed of in the aforementioned terms.

**(Ahsanuddin Amanullah, J)**

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