

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.46649 of 2016**

Arising Out of PS. Case No. -136 Year- 2016 Thana -NAUTAN District-  
WESTCHAMPARAN(BETTIAH)

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JANAK RAM S/O LATE AKALU RAM RESIDENT OF VILLAGE-  
JHAKHARA, P.S.- JAGDISH (NAUTAN), DISTRICT- WEST  
CHAMPARAN.

.... .... PETITIONER/S

VERSUS

THE STATE OF BIHAR

.... .... OPPOSITE PARTY/S

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**Appearance:**

For the Petitioner/s : Mr. Sanjeev Kumar, Adv.

For the Opposite Party/s : Mr. Sri Akbar Ali, APP

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**CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI**  
**ORAL ORDER**

4      25-01-2017                      Heard learned counsel for the petitioner as well as  
  
learned Additional Public Prosecutor.

Petitioner is father-in-law. He along with others have  
been made an accused by the father of the deceased on account of  
dowry death.

It has been submitted on behalf of petitioner that he  
happens to be father-in-law. He was arrested from his house.  
Furthermore, it has also been submitted that there happens to be  
absence of specific allegation against him. That being so,  
considering the period of custody since 12.06.2016 and further, in  
absence of specific allegation he be enlarged on bail.

Furthermore, it has also been submitted that from the  
complaint petition itself it is apparent that deceased was taken to  
hospital by her in-laws. It is also apparent from the case diary that



deceased had given her dying declaration wherein she had stated that while she was asleep fire caught accidentally on account of falling of lamp over her. It has also been submitted that narration whatever the complaint petition contains is palpably false in the background of the fact that informant's presence is on the dying declaration. Had there been any grievances at the end of the informant then in that event, informant might have given his own fardbeyan on the said date itself. That being so, this case loses its sanctity.

It has further been submitted that petitioner was apprehended at nascent stage of the investigation on account thereof charge sheet was submitted against him alone however, husband as well as other have already surrendered before the learned lower court and are under judicial custody.

On the other hand, learned Additional Public Prosecutor opposed the prayer and submitted that from the case diary, the activity of the police official of Patna is found duly tampered and on account thereof, the aforesaid dying declaration could not be relied upon nor presence of informant over the same.

From perusal of the case diary it is evident that deceased while was admitted at J.T.S. Hospital was examined by A.S.I., Agamkuan P.S. whereunder she had disclosed that during



course of sleep lamp fallen down over bed as a result of which she caught fire. The aforesaid dying declaration contains signature of Dhanesh Ram, Sunil Ram and petitioner Janak Ram. Inquest is also attached therewith prepared by same police official which is dated 10.06.2016. That means to say complaint petition was filed much before death of deceased. In the aforesaid background keeping the dying declaration, awaiting death of deceased is a circumstance which creates doubt over genuineness of the document more particularly on account of absence of doctor to the extent of clarifying whether deceased at the time of making such statement was mentally fit and in likewise manner, it does not contain the date. Apart from this, there also happens to be lacking of O.D. Slip which, in case deceased was admitted was accepted, to be sent by the aforesaid hospital. In the aforesaid background when the other materials having been collected during course of investigation is taken up more particularly the place of occurrence having visited by the I.O. so enumerated under para-29 of the case diary, it is evident that nowhere police had found sign of burn at least over bed, having spot of flame over walls, roof etc. Had there been case of accidental fire while deceased was asleep then certainly the furniture, the bed, the room might have evidences of the misfortune.



That being so, I do not see it a fit case for grant of  
bail. Accordingly, prayer for bail is rejected.

**(Aditya Kumar Trivedi, J.)**

Prakash Narayan

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