

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35432 of 2018

Arising Out of PS.Case No. -279 Year- 2017 Thana -BIBHUTIPUR District- SAMASTIPUR

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1. Bhola Mahto Son of Late Chalitar Mahto Resident of Village-
Mohanpur, P.S. Bibhutipur, District- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bhubneshwar Prasad, Advocate

For the Opposite Party/s : Smt. Sharda Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 21-08-2018 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

The petitioner is in custody in connection with
Bibhutipur P.S. Case No.279 of 2017, a case under Section 302/34
of the Indian Penal Code, pending in the Court of learned
Additional Chief Judicial Magistrate-I, Rosera, Samastipur.

Petitioner is husband of the informant. Allegation is
that the petitioner committed murder of his son Sajan Kumar by
throttling him to achieve the skill of witchcraft. That was done at
the instance of Janki Devi, the wife of the elder brother of the
petitioner.

Submission of the learned counsel for the petitioner is
that the petitioner is in custody since 19.11.2017. Investigation of
the case is already complete. There is no eyewitness of the
occurrence. Petitioner is suffering from mental illness and co-



accused Janki Devi has been granted bail by a coordinate Bench of this Court in Cr. Misc. No.24008 of 2018.

The prescription of the doctor attached with the bail petition does not show that the petitioner was suffering from any mental disease of such a nature that the petitioner was incapable of knowing the consequence of the act done by him.

The offence is not compoundable. Hence, there is no merit in the submission that the wife of this petitioner, who is informant of this case, has compromised the case. Grant of bail to co-accused Janki Devi, who is a female and against whom in the FIR only allegation is that at her instance the petitioner throttled his son is no ground for bail to the petitioner.

There is no strong reason as to why the wife of the petitioner would speak against the petitioner in such a matter. Hence, I am not inclined to enlarge the petitioner on bail. The learned trial Court is directed to expedite the trial and conclude the same within nine months, failing which the petitioner would be at liberty to renew the prayer for bail before the trial judge itself, who shall pass a reasoned order.

(Birendra Kumar, J)

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