

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.13994 of 2014

Arising out of PS.Case No. -605 Year- 2013 Thana -KHAZANIHAT District- PURNIA

Dr. Md. Zahid Alam, S/O Abdul Latif, Resident of village- Madhepur, P.S-
Balrampur, Distt- Katihar At present/ mohalla- Shiv Mandir Road Gali,
Line Bazar, P.S- (Sahayak) Kahzanchi Hat, Dist- Purnea.

... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Chitraranjan Sinha, Sr. Advocate.
Mr. Pramod Kumar Mallick, Advocate.

For the Opposite Party/s: Mr. R.N.Jha, APP.

CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 07-01-2015 Heard Mr. Chittaranjan Sinha, learned counsel for the
petitioner and also learned counsel for the State.

The petitioner faces prosecution for offence under Sections
419, 420, 467, 468, and 471 of the Indian Penal Code and under Section
17 of the Indian Medical Council Act 1970.

Mr. Chittaranjan Sinha has submitted that the allegation
against the petitioner as per the report of the informant Civil Surgeon-
cum-Chief Medical Officer, Purnea, of practicing on the allopathic side
of medicine by using the qualification of MD & DCH is not only over
exaggerated but also on account of misdeed of the compounder of the
petitioner. He has, in this regard, tried to explain that the petitioner is
only practicing on Unani and Ayurvedic side for which he holds the
necessary qualification and therefore prescribing of certain common
allopathic medicine cannot constitute offence for which petitioner is

being prosecuted.

Learned counsel for the State, on the other hand, has submitted that at present there is now a rampant practice by the Unani/Ayurvedic/Homeopathy doctors who are ineligible to prescribe medicine on allopathic side due to lack of basic qualification as per the restriction imposed by the Medical Council of India. He has also submitted that the report of the Civil Surgeon-cum-Chief Medical Officer is based on objective finding and they can not be brushed aside specially when the petitioner has been found to be using the letter head for writing prescriptions by claiming to have qualified of M.D. or D.C.H. while are exclusive preserve of allopathic doctors.

While this Court is not required to record any finding at this stage when the trial of the petitioner is yet to be taken up but then if the petitioner Dr. Md. Zahid Alam is prepared to atone his conduct by not only removing his working compounder, who, according to him, had inserted the qualification of MD & DCH in his letter heads for being used as prescription, but would also deposit a sum of Rs. 1,00,000/- (one lac) in the trial court, by keeping the same subject to the result of his trial and surrenders before the trial court within 4 weeks from today, he shall be released on bail on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Purnea in connection with K.Hat (Sahayak) P.S. Case No. 605 of 2013, subject to the following other conditions:

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- (i) The petitioner apart from depositing Rs. 1,00,000/- in cash in the trial court and leaving it subject to the result of his trial shall give a written undertaking that henceforth he will never use any letter head for the purpose of prescription or otherwise describing himself to have any qualification on the allopathic side including MD and DCH nor would prescribe any prohibited allopathic medicine by a Unani or Ayurvedic doctor to any of his patient.
- (ii) The petitioner shall also give written undertaking that if any further allegation of similar nature is reported against him by any person to the Civil Surgeon, Purnea and/or any authorised officer of the Health Department with cogent proof and the same is brought to notice of trial court his privilege for grant of bail shall automatically come to an end.
- (iii) Both of the bailors will be a close relative of the petitioner, who will undertake an affidavit giving genealogy as to how they are related with the petitioner. The bailors will also undertake to inform the Court if there is any change in the address of the petitioner.



- (iv) The affidavit shall clearly state that the petitioner is not an accused in any other case and if he is, he shall not be released on bail.
- (v) The bailors shall also state on affidavit that he will inform the court concerned, if the petitioner is implicated in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of bail on the ground of misuse.
- (vi) The petitioner will give an undertaking that he will receive the police papers on the given date and be present on the date fixed for charge and if he fails to do so on two given dates and delays the trial in any manner, his bail will be liable to be cancelled for reasons of misuse.
- (vii) That the petitioner will be well represented on each and every date of this trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled on this ground alone.

(Mihir Kumar Jha, J)

Sujit/-

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