

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34015 of 2016

Arising Out of PS.Case No. -250 Year- 2016 Thana -NAWADA District- NAWADA

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Mahanand Singh @ Prof Mahanand Singh S/o Barho Singh resident of
Village- Bara Ejra, P.S. Kawakole, District- Nawada, presently at City
Hospital, Post mortem Road, P.S.- Nawada, District- Nawada.

.... Petitioner

Versus

The State of Bihar

.... Opposite Party

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Appearance :

For the Petitioner : Mr. Saket Tiwary, Advocate.
Mr. Sanjeev Kumar Dubey, Advocate.

For the Opposite Party : Mr. Sri Satyavarat Verma (APP-109)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

2 24-08-2016 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Petitioner apprehends his arrest in connection with
Town (Nawada) P.S. Case No. 250 of 2016 registered for offences
punishable under Sections 420, 188, 326, 307 and 120(B) of the
Indian Penal Code.

The prosecution case is that under the Rashtriya
Swasthya Bima Yojana, doctors of various Nursing Homes are
performing unnecessary operations and are being performed only
to receive insurance claims from the banks, some of which are
allegedly not conducted at all.

Learned counsel for the petitioner submits that the

petitioner was posted as Assistant Professor of Surgery in Jawahar Lal Nehru Medical College, Bhagalpur and thereafter as Assistant Professor in Narayan Medical College and Hospital, Jamuhar, Rohtas and has performed surgery under Rashtriya Swasthya Bima Yojana at City Hospital, Nawada. The only complaint against the petitioner as alleged is that one Fulo Devi had gone to City Hospital and had taken medicine, no other allegation has been levelled against this petitioner. It has been submitted by learned counsel for the petitioner that the petitioner is a specialist in surgery and he performs surgery to such patients, who are coming to his Nursing Home when necessitated. He further submits that it is the doctor's opinion whether surgery is required or not and the competent body is the Indian Medical Association, which examines cases of ethical and professional misconduct. He further submits that the police cannot take up such matters and decide on whom operations be performed. The learned counsel for the petitioner has drawn my attention to the fact that various orders have been passed by this Court in relation to similar cases in the State of Bihar, in which, anticipatory bail has been granted to various surgeons and particularly he has drawn my attention to a matter disposed of by a Co-ordinate Bench of this Court in Cr. Misc. No. 22861 of 2016 dated 31.05.2016.

However, learned A.P.P. for the state opposes the prayer for bail.

Be that as it may, since the competent authority is the Indian Medical Association to examine cases of medical and professional misconduct, and not the police, let the above named petitioner, in the event of his arrest or surrender before the Court below within a period of eight weeks from today, be released on bail on furnishing bail bonds of Rs. 10,000/- (Ten thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Nawada in connection with Town (Nawada) P.S. Case No. 250 of 2016, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Nilu Agrawal, J.)

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