

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.51627 of 2015

Arising out of P.S. Case No.-83 Year-2015 Thana- Telhara District-Nalanda

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1. Dr. Surendra Prasad, Son of Ram Balak Mahto
2. Sunaina Devi, Wife of Dr. Surendra Prasad
Both residents of village - Mahadipur, P.S.- Telhara, District - Nalanda.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner : Mr. Arun Kumar, Advocate

For the Opposite Party : Ms. Asha Kumari (APP)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

4 16-02-2016 Heard learned counsel for the petitioners and the

learned counsel appearing on behalf of the State.

The petitioners, who are Rural Medical Practitioners having valid certificates, are apprehending their arrest in connection with Telhara P.S. Case No.83 of 2015 for allegedly having committed the offences under Section 304/34 of the Indian Penal Code.

Case diary in the present case was called for along with F.S.L. report, which has since been received.

The F.S.L. report has been opened in my presence.

Learned counsel for the petitioners submits that at best the present case can be a case of medical negligence and there was no *mens rea* involved. It is further submitted that

having valid certificates for giving primary treatment, the petitioners are functioning in the village. It is further submitted that noting the critical condition of the patient, these petitioners have recommended that the 3-year old boy be sent to Ekangarsarai for proper medical treatment. The F.S.L. report does not indicate presence of poison.

Case diary in the present case has been perused by the learned State Counsel, who submits that these petitioners are practising in the village and some villagers have stated that they have been treating patients and giving primary help.

Considering all the facts and circumstances of the case and the materials which have come in the case diary and that the F.S.L. report does not indicate presence of any poisonous substance, let the petitioners, above named, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bonds of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of Sri Jitendra Kumar, learned Judicial Magistrate, 1st Class, Hilsa, District-Nalanda, in connection with Telhara P.S. Case No.83 of 2015, subject to the conditions as laid down under Section 438(2) of the

Code of Criminal Procedure.

F.S.L. report may be sent down to the court below
for use and reference.

(Anjana Mishra, J)

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