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IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.23192 of 2016

Arising Out of PS.Case No. -34 Year- 2015 Thana -GOVERNMENT OFFICIAL COMP. District-AURANGABAD

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Jitendra Kumar

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Saket Tiwary, Advocate
For the Opposite Party/s : Mr. T.P.Mandal(App)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

ORAL ORDER

3 04-08-2016 Heard learned counsel for the petitioner and the learned A.P.P. for the State.

The petitioner apprehends his arrest in connection with G.O. Case No. 34 of 2015 registered for offence punishable under Section 23 of the Pre Conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 in which cognizance has been taken .

The prosecution case as alleged in the complaint case No. G.O. Case No. 34 of 2015 is that upon direction of the District Magistrate, Aurangabad, he along with two persons visited the premises of the petitioner and found that the said Mahavir Ultrasound was being run by the petitioner and found irregularities in the said Ultrasound center such as the attending doctor was also engaged on contract at Nabinagar PHC and his private clinic

as well and according to Section 19 (2), he cannot act at two places and the information about sex determination was a crime, written only in Hindi and not in English. Photographs of gods were on the wall, which is prohibited under the Act. The name of the machine as mentioned in the license was different from machine which was used by them. It is also alleged that there was lack of compliance at the Ultrasound center of the petitioner.

It has been submitted by the learned counsel for the petitioner that the allegation against the petitioner is absolutely false and frivolous. He also submits that he is the owner of Mahavir Ultrasound and the centre of the petitioner is duly registered by the Civil Surgeon, Aurangabad. It is further submitted that no sex determination test is being carried out in his clinic and the Inspection was done by the Committee so constituted also only points out of certain irregularities and have not come to any material finding and equipment used for sex determination or that it was being carried out in the center.

However, learned counsel appearing for the State submits that he has filed counter affidavit stating therein that the District Administration had constituted a Committee and had inspected the Centre of the petitioner and found certain irregularities, which has been pointed out in the said report but the

said counter affidavit only speak of irregularities and does not show sex determination was carried out in the said center.

Having considered the aforesaid facts, 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, Aurangabad in connection with G.O. Case No. 34 of 2015, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Nilu Agrawal, J)

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