

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12565 of 2016

Arising Out of PS.Case No. -43 Year- 2013 Thana -SAMASTIPUR District- SAMASTIPUR

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RAJIV KUMAR MISHRA @ DR. RAJEEV KUMAR MISHRA son of Dr.
Rajeshwar Prasad Mishra

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bhavesh Kumar

For the Opposite Party/s : Mr. D.P.Tiwary(App)

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CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

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20-06-2016

Heard learned counsel for the petitioner and learned

Additional Public Prosecutor for the State.

The petitioner apprehends his arrest in connection with a case registered for the offences punishable under Sections 409/420/307/326/120B of the Indian Penal Code.

It is submitted on behalf of the petitioner that the allegation against him in brief is that the informant vide his letter dated 25.02.2013 had requested the S.H.O. Town P.S. Samastipur to register an F.I.R. against the petitioner in appropriate sections stating there that the petitioner was authorized by ICICI Lambard through an agreement dated 03.02.2010 for Medical work under National Health Insurance Programme. It was contended that complaints were being received in Janta Darbar in respect of unnecessary surgery being done to B.P.L. Beneficiaries and in the light of letter No. 682 dated 04.07.2012 issued by Secretary, Labour Resources Department, Bihar, Patna the District



Magistrate Samastipur constituted a team for enquiry of irregularities. The enquiry team issued show cause to Nursing homes under various memo on 03.09.2012 which was also replied by the petitioner. After considering the same, several allegations have been framed and a second show cause notice was served upon the petitioner on 05.01.2013 and after hearing the beneficiaries and the evidence given by the petitioner and after scrutiny of Medical records two allegations were found true which are as follows:-

- I. Without conducting surgery, monetary benefit was taken by playing fraud.
- II. Unwarranted surgery was done for obtaining monetary benefit from insurance company by giving physical pain to the beneficiaries.

Learned counsel for the petitioner submits that under similar circumstances, several other doctors had approached this Court and by order dated 31.05.2016 passed in Cr. Misc. No. 22816 of 2016, one such doctor has been extended the privilege of anticipatory bail in the similar circumstances. Furthermore, it is only the Indian Medical Association who can examine the cases of professional misconduct, and this aspect of the matter has been considered by the Apex Court in a catena of decisions and the Police is not the competent body which can comment on

the efficacy of a doctor performing a surgery.

In view of the aforementioned facts and circumstances, let the petitioner, in the event of his arrest / surrender within a period of four weeks from the date of receipt/production of a copy of this order, be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Samastipur in connection with Samastipur Town P.S. Case No. 43/2013, subject to the conditions as laid down under Section 438(2) of the Cr. P.C.

(Anjana Mishra, J)

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