

COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C. (A) No. 254 /2016

Dr. Vijay Panjwani, S/o. Sanmukh Das Panjwani, (wrongly mentioned as Sammukh), Aged About 60 Years, R/o. In front of Vivekanand Netra Chikitsalaya, P.W.D. Ratnabandha Road Dhamtari, Tahsil & District Dhamtari, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, P.S. City Kotwai Dhamtari, District Dhamtari, Chhattisgarh.

---- Respondent

For Applicant : Mr. Y.C.Sharma, Advocate

For Respondent : Mr. Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

16/03/2016

1. Apprehending arrest in connection with Crime No.48/2016 registered at Police Station- City Kotwali Dhamtari, District Dhamtari (C.G.) for the offence punishable under Section 420 of Indian Penal Code, the applicant has preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution case, the applicant operated one Kumari Bai for Cataract and deducted Rs.6,000/- from Smart Card and the operation was not according to the medical procedure, which was disclosed subsequently. Likewise, Komal Ram who was treated however not operated and from his Smart Card Rs.7000/- was deducted. Subsequently, a report was made by the patient and on the opinion of the another Doctor, the case has been registered.

3. Learned counsel for the applicant would submit that Kumari Bai was treated according to the skill as was known to the Doctor and she was operated, therefore, no criminality has been committed and in respect of Komal Singh, he was treated for Glaucoma, however, he was not operated and by a mistake Rs.7000/- was deducted from his Smart Card by the staff of the Hospital and when the communication was made to the Doctor, he immediately replied it by Annexure A-3 dated 15.01.2016 and stated that by mistake it has happened by the staff of the Hospital and he was ready to give back the amount. He therefore submits that taking into the age of the applicant, who is 60 years of age, he may be enlarged on anticipatory bail.
4. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail and would submit that Rs.6,000/- was taken for Kumari Bai and Rs.7,000/- was taken out for treatment of Komal Singh, however, Komal Singh was not subjected to surgery; therefore, the offence has been committed.
5. Perused the case diary and the statement as also the various documents seized. It is not in dispute that Kumar Bai was operated and her husband was treated but no surgery was performed though Rs.7,000/- was deducted from the Smart Card. The communication which is placed on record Annexure A-3 is email of January, 2015 wherein it shows that the Doctor on being sent a notice has admitted the fact that fault has been committed by the staff of Hospital and he is ready to give back and amount. Considering the totality of the case and the degree of allegation and mens rea, further considering the age of the Doctor/applicant, I am inclined to release him on anticipatory bail.
6. Accordingly, the anticipatory bail application is allowed.

7. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on furnishing a personal bond to a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions :
- (i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;
 - (ii) that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;
 - (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
 - (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge