

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38745 of 2017

Arising Out of PS.Case No. -533 Year- 2011 Thana -BHABHUA District- BHABHUA (KAIMUR)

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1. NAUSHER ALI ANSARI @ NAUSHER ALI, son of Haroon Rashid Ansari,
 2. Wakil Ahmad @ Md. Wakil Ahmad, son of Asgar Ahmad, both resident of village- Aawari, P.S.- Mohania, District- Kaimur at Bhabua.

.... Petitioner/s

Versus

1. The State of Bihar through the Department of Vigilance, Patna

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Parwej Khan, Advocate

For the Opposite Party/s : Mr. Ramakant Sharma, LO, I/c, Vigilance
Mr. Amresh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4/ 04-10-2017

Heard learned counsel for the petitioners and learned counsel for the Vigilance.

Petitioners apprehend their arrest in Special Case No.07 of 2012 arising out of Bhabua P.S. Case No.533 of 2011 instituted for the offence under Section(s) 409, 420, 467, 468, 471/34 and 120-B Indian Penal Code and Section 13(1)(d) of the Prevention of Corruption Act pending in the Court of the Special Judge, Vigilance, 1st, Patna.

Instant case has been instituted by the Informant, Ras Bihari Singh, Civil Surgeon, Kaimur, Bhabhua, alleging that co-accused, Uchit Lal Mandal, being the Civil Surgeon committed financial irregularities of the huge amount to the tune of crores. As per the letter dated 22.07.2011 of the District Magistrate-cum-



Chairman, District Health Society, Kaimur, as well as Audit Report bearing No.05/2011-12 of the State Health Committee, Bihar, it is apparent that several irregularities were found during course of audit. It was found that Dr. Uchit Lal Mandal made payment to the tune of Rs.5.50 crores to the NGOs, Private Nursing Homes, Private Hospital and Private Doctors under the Family Planning (Sterilization) Scheme and the Mother and Child Security Scheme without obtaining the prior permission from the District Magistrate-cum-Chairman of the District Health Society. It is alleged against these petitioners that they were running NGO in the name and style of *Jamia Islamia Ashraful Ulum, Darwaan*, and they received Rs.11,85,000/- under sterilization scheme and Rs.12,16,000/- for sale delivery.

It has been submitted on behalf of the petitioners that during course of investigation the IO verified record of *Jamia Islamia Ashraful Ulum, Darwaan*, and there is no evidence on record to suggest that the petitioners had taken any monetary benefits by cheating or misrepresenting any one. Petitioner No.1 has returned Rs.5,17,000/- as asked by the Civil Surgeon, which will be apparent from para 154 of the case diary.

On the other hand, counsel for the Vigilance has submitted that the NGO of the petitioners, namely, *Jamia Islamia*



Ashraful Ulum, Darwaan, was paid Rs.11,85,000/- for sterilization and Rs.12,16,000/-for safe delivery. It has come in para 281 to 285 of the case diary that Rs.11,85,000/- for sterilization and Rs.12,16,000/-for safe delivery was made available to NGO of the petitioners. It has further come in those paragraphs that one lady, Meena Devi, was shown to have been given 12 times treatment for safe delivery within four months. Same lady had been shown to had been sterilized 14 times in four months. It is also mentioned in para 282 of the case diary that double payment has been made in the name of 19 females under the head of sterilization and 23 females under the head of safe delivery. It is also mentioned in para 285 of the case diary that just after four days of sterilization of Meena Devi, delivery was shown to have taken place to her. Similarly, with respect to nine other ladies, delivery was shown to have been done between 8 days to 5 months of their sterilization.

Counsel for the petitioners has submitted that co-accused, Uchit Lal Mandal, has been granted anticipatory bail by a co-ordinate Bench of this Court vide order dated 12.09.2012 passed in Cr. Misc. No.27053 of 2012. Similarly, another co-accused, Dr. Idrish Jauher @ Md. Idrish Johar, has been granted anticipatory bail by a co-ordinate Bench of this Court vide order dated 08.02.2017 passed in Cr. Misc. No.55553 of 2016.



Counsel for the Vigilance has further submitted that prayer for anticipatory bail of other co-accused has been rejected by this Court vide order dated 03.04.2017 passed in Cr. Misc. No.4082 of 2017 with Cr. Misc. No.10772 of 2017 and also vide order dated 01.03.2017 passed in Cr. Misc. No.1809 of 2017.

From the order dated 12.09.2012 passed in Cr. Misc. No.27053 of 2012, by which co-accused, Uchit Lal Mandal, was granted anticipatory bail, it appears that the materials in the case diary was not brought to the notice of the Court at that time.

Keeping in view serious nature of allegation against the petitioners, which finds support from para 281 to 285 of the case dairy, this Court does not find it a fit case for grant of anticipatory bail.

Prayer of the petitioners for grant of anticipatory bail is rejected.

Petitioners may surrender before the Court below and seek regular bail, which shall be considered and disposed off in accordance with law on its own merit without being prejudiced by this order.

(Sanjay Priya, J)

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