

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 539 of 2017**

Dr. Smt. F.N. Sagar, W/o. Shri Subodh Sagar, aged about 58 years, R/o. Village-Bhaisa Dafai, Haldibadi Chirmiri, District – Koriya (C.G.)

----Applicant**Versus**

State of Chhattisgarh, Through : the Station House Officer, Police Station – Chirmiri, District – Koriya (C.G.)

---- Respondent

For Applicant	: Mr. Kishore Bhaduri & Mr. Pawan Kesharwani, Advocates
For Respondent/State	: Mr. Anant Bajpai, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****24/10/2017**

1. Apprehending arrest in connection with Crime No.214/2017 registered at Police Station- Chirmiri, District – Koriya (C.G.), for offence punishable under Section 304 (Part-II) of Indian Penal Code and Section 12 of the Chhattisgarh State Upcharyagriha Tatha Rogopchar Sambandhi Sthapanaye Anugyapan Adhiniyam, 2010, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicant that the applicant is a qualified medical practitioner, she is bachelor of medicine and bachelor of surgery from Berhampur University and has certificate of Indian College of Maternal & Child Health. She has been registered as medical practitioner of Chhattisgarh Medical Council and also has a degree of Ultrasonography, the institute where she works is also an authorized institute. It is submitted that

wife of the complainant Reshmi Parveen was admitted on 04.04.2017 at 2.30 AM in emergency condition and she was operated, she gave birth to a male child but Reshmi Parveen was suffering from other ailment because of which she died soon after the delivery process. Complainant -Irfan Ali, the brother of the deceased has lodged FIR in Police Station – Chirmiri falsely implicating the applicant, in which he has stated that the applicant is not a qualified physician and surgeon on the basis of which offence has been registered against her only on the basis of this statement, hence prayed that the applicant may be enlarged on anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail. It is submitted that the applicant is not holding the post graduate degree in surgery, hence, she should not have operated the deceased. In the information sent by the applicant to police about the death of the deceased, it was mentioned that deceased died due to heart attack, whereas the postmortem report shows that deceased died due to shock, hence this varied statement made by the applicant shows the criminality of the act conducted by her. Hence, she is not entitled for grant of anticipatory bail.
4. I have heard the learned counsel for the parties and perused the case diary and the documents.
5. Applicant is holder of bachelor certificate in surgery as well as in medicine. The cause of death is yet to be ascertained whether the death has occurred on account of surgical procedure conducted by the applicant or for some other reason, it may be a case of medical negligence or otherwise, hence prosecution has to collect evidence regarding criminality in the act committed. Taking into consideration

of the facts and circumstances of the case, this Court is inclined to extend the benefit of anticipatory bail to the applicant.

6. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, she shall be released on bail by the officer arresting her on executing a personal bond in 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 herself 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 her by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge