

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.23872 of 2018

Arising Out of PS. Case No.-88 Year-2017 Thana- KHANPUR District- Samastipur

Santosh Kumar, S/o Pulkit Ray, R/o Vill.- Gotiyahi, P.S.- Khanpur, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Kamlesh Kumar Sharma, Adv.

For the Opposite Party/s : Mr. J. N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

2 27-04-2018 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner is apprehending arrest in a case registered for the offences punishable under Sections 304B/34 of the Indian Penal Code.

The prosecution case got initiated on the basis of written report dated 07.07.2017 submitted by Ranjeet Kumar Rai to the Station House Officer, Khanpur Police Station to the effect that on 05.07.2017 at 10.00 A.M., since the sister of the informant got sick, she was taken to the nursing home of Dr. Ram Nath Rai, who suggested for medical surgery and thereafter he performed the surgery on the sister of the informant. The petitioner, being the compounder of the doctor, assisted him during operation. It is further alleged that after surgery, the sister of the informant was crying of severe pain, when the informant



requested the doctor to visit the patient, then the doctor scolded him as well as her sister and started assaulting them. It is further alleged that doctor Ram Nath Rai slapped the daughter of the informant while she was crying of pain, whereas, this petitioner alleged to have given her an elbow blow. Thereafter, the sister of the informant was discharged from the nursing home of Dr. Ram Nath Ram and was taken to another hospital, where, she was declared dead.

It is submitted by learned counsel for the petitioner that even assuming the accusation, no offence is made out against the petitioner, as there is no medical negligence has been attributed to him. At best, if any offence of medical negligence is made out, it is against Dr. Ram Nath Rai, who has been granted regular bail by a co-ordinate Bench of this Court vide Criminal Miscellaneous No. 17514 of 2018, in view of the ratio laid down by the Hon'ble Apex Court in the case of *Jacob Mathew Vs. State of Punjab* reported in 2005(6) SCC1. A statement has been made in paragraph no.3 of the petition that the petitioner has no criminal antecedent.

It is submitted by Mr. J. N. Thakur learned APP for the State the petitioner is named in the FIR.

Considering the thrust of accusation against co-



accused, Dr. Ram Nath Rai, who has been granted regular bail, coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned SDJM, Samastipur, in connection with Khanpur P.S. Case No.88 of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

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