

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.41728 of 2019**

Arising Out of PS. Case No.-113 Year-2019 Thana- MOTIHARI TOWN
District- East Champaran

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DR. MADHUR KUMAR VERMA, aged about 50 years, Son of Dr. Harikishor Prasad Verma Resident of Mohalla - Agarwa, P.S.- Motihari Town, District- East Champaran

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner : Mr. Rajesh Ranjan, Advocate.
For the informant : Mr. Raj Krishna Jha, Advocate.
For the State : APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

2 08-07-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 304,34 of the Indian Penal Code registered in connection with Motihari Town P.S. Case No. 113 of 2019.

3. It is submitted that the petitioner has been falsely implicated and admittedly he was acting in discharge of his professional duties as a medical doctor. It is submitted that the informant had earlier brought his son on 27.01.2019 and the petitioner had performed nasal correction surgery for the injuries which had been suffered by the patient in his nose, and thereafter discharged on 28.01.2019. The informant once again approached the petitioner on 17.02.2019 complaining that his son was breathless. The petitioner found signs of trauma from the point where the previous surgery has been done and accordingly, nasal packing was done in order to stop bleeding



cauterization. About an hour later the patient again complained of breathlessness and despite best efforts, the petitioner was unable to revive him. It is submitted that at best it might be a case under Section 304(A) IPC but the F.I.R. has been instituted under Section 304 IPC, the ingredients whereof are not attracted. Reliance is placed on the decision of the Hon'ble Apex Court in Jacob Mathew Vs. State of Punjab and Anr., 2005 (4) PLJR (SC) 213, as well as on Rule 7(3) of the Bihar Medical Services Institution and Person Protection Rules, 2018 which contemplates an inquiry by a committee of able doctors with regard to negligence. The petitioner claims clean antecedents.

4. Learned APP assisted by learned counsel for the informant appears and has been heard.

5. Be that as it may, in the event of the petitioner's arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioner be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Motihari in connection with Motihari Town P.S. Case No. 113 of 2019, subject to the conditions as laid down under Section 438 (2) Cr.P.C., and also subject to the following further conditions -

(i) That one of the bailors shall be a close relative of the petitioner.

(ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioner shall cooperate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(iv) That the petitioner shall remain physically present in Court on each and every date during trial and in the event of



failure on two consecutive dates without sufficient reason, his bail bond shall be liable to be cancelled by the learned Court concerned.

(Vikash Jain, J)

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