

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.26868 of 2020**

Arising Out of PS. Case No.-212 Year-2019 Thana- PARIHAR District- Sitamarhi

1. TUNTUN KUMAR Son of Sri Baidhanath Ray Resident of Laduari, Ward No.11, P.S.- Parihar, District- Sitamarhi.
2. Sunder Devi W/o Sanjay Chaudhary Resident of Maisaha, Ward No.1, P.S.- Parihar, District- Sitamarhi.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

**Appearance :**

For the Petitioner/s : Mr.Surinder Kumar, Advocate  
For the Opposite Party/s : Mr.Surendra Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**  
**ORAL ORDER**

8      15-03-2021                      Heard learned counsel for the petitioners and learned  
A.P.P. for the State.

Petitioners, in the present case, are seeking pre-arrest bail in connection with Parihar P.S. Case No. 212 of 2019 registered for the offences under Sections 341, 323, 420 and 316 of the Indian Penal Code, pending in the court of learned Chief Judicial Magistrate, Sitamarhi.

As per the prosecution story, the daughter of the informant was pregnant and when she felt pain, the petitioner no. 2 allured her and by misguiding in the name of getting normal delivery done took her to Janta Hospital. The said Janta Hospital is allegedly being run by Dr. Tuntun Kumar (petitioner no. 1). It is alleged that after admission of his daughter in the Hospital of Dr. Tuntun, both these petitioners informed the informant that his



daughter is required to be operated failing which the child would not survive. It is alleged that Dr. Tuntun Kumar and Sunder Devi (petitioner nos. 1 & 2) conducted operation upon the daughter of the informant but very soon the condition of both the daughter and her newly born child were stated to be in danger. The child died in course of treatment at Muzaffarpur. The daughter of the informant was taken to Patna where the doctors told the informant that her uterus has been half cut by the previous doctor. The entire uterus was taken out in order to save the daughter of the informant. As a result of this, the daughter of the informant now cannot become mother.

In course of argument, learned counsel for the petitioners took a plea that the Janta Hospital is having a provisional registration certificate issued by the office of the Civil Surgeon, Sitamarhi. Petitioner no. 1 is the owner of the said hospital. He, however, does not diagnose the patient and never conducts any operation. The Incharge of the hospital is one Dr. R.K. Sinha who used to provide treatments.

This Court earlier vide order dated 06.11.2020 called for the case diary and considering the gravity of the allegations, vide order dated 20.02.2021, also called for a report from the Civil Surgeon, Sitamarhi on the existence of Janta Hospital. This Court wanted to know whether the Hospital is running in accordance



with law and other relevant information based on it. When the informations were not fully furnished, this Court called for the personal appearance of the Civil Surgeon, Sitamarh, the previous Civil Surgeon, Sitamarhi who had granted the provisional certificate, the Incharge, Medical Health Officer, Primary Health Centre, Katihar and the Investigating Officer of this Case.

Today, they are present in person.

Mr. R. Kumar, who happened to be the Civil Surgeon and granted the provisional certificate to Janta Hospital, is unable to show any paper in which he recorded his satisfaction as to the establishment of the Hospital in accordance with the norms. He has rather taken a stand that no inspection was required. He had issued the provisional certificate without conducting any inspection of the Hospital premises and/or the facilities required to be attached with the said Hospital.

The present Civil Surgeon, Sitamarhi has informed this Court that he constituted a Committee to inspect the Hospital, in course of inspection he did not find presence of any qualified doctor in the Hospital. On being totally dissatisfied with the competence of the petitioner no. 1 to run a Hospital, he has cancelled the provisional certificate of the Hospital. The petitioner no. 1 is not a qualified doctor.

The Investigating Officer of the case is present. He has



informed that when he visited the premises of the said Hospital after the alleged occurrence he found the doors closed and no one was present there.

In the nature of the information furnished to this Court whereunder this Court has noticed that petitioner no. 1 was running the Hospital though he is not qualified and no qualified doctor was found in the Hospital, the petitioner no. 2 had played a role in misguiding the informant and his daughter and took them to petitioner no. 1, the gravity of the allegations are such that both the petitioners do not deserve privilege of anticipatory bail.

The prayer for anticipatory bail of the petitioners is, thus, rejected.

Ordinarily, the Court does not give any observation in a case of this kind where the accused comes to this Court for grant of anticipatory bail, but in the nature of the materials noticed above, at this stage, this Court being a constitutional Court cannot remain a mute spectator. This Court, expects that the Civil Surgeon, Sitamarhi shall review all the provisional certificates granted by Mr. R. Kumar, being predecessor in office and take an appropriate view thereon keeping in mind the statutory provisions, norms and guidelines with regard to the establishment of these Hospitals in rural areas.

The District Magistrate, Sitamarhi shall personally



supervise such review and ensure that the Hospital(s) to whom certificates have been issued by Mr. R. Kumar, the previous Civil Surgeon, in the rural areas, are confirming to the norms and guidelines or not. This has become necessary in order to save the poor people in the rural areas from getting themselves trapped in such hospitals which have come up by virtue of the kind of provisional certificates noticed by this Court in the present case. It is necessary to save the poor and underprivileged persons who are getting trapped everyday in the name of hospitals, in the hand of unqualified persons whose sole aim is to cheat those underprivileged persons. They do not mind playing with the life of the people who fall in their trap.

It will be open for the District Magistrate, Sitamarhi to take such action which may be required against the officials present or past who may be found indulged in granting such certificates which is against the 'public interest' and the 'fundamental public policy'.

The aforesaid observations shall, however, not prejudice the case of the petitioner in course of trial.

This application stands disposed off accordingly.

**(Rajeev Ranjan Prasad, J)**

*Rajeev/-*

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

