

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53800 of 2019

Arising Out of PS. Case No.-79 Year-2019 Thana- MATIHANI District- Begusarai

MD. ISRAIL @ MD. IJRAIL @ DR. MD. IJRAIL @ DR. MD. ISRAIL S/o
Md. Basir R/o village- Saidpur, P.S.- Matihani, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sandip Kumar Gautam, Advocate
For the Opposite Party/s : Mr.Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

10 16-05-2022 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner was granted provisional anticipatory
bail by order dated 04.12.2019 by a Co-ordinate Bench of this
Court.

It has been submitted on behalf of the petitioner that
the petitioner has got no criminal antecedent. There is no
allegation of tampering of witnesses alleged against the
petitioner. The petitioner has been made accused due to mistake
of fact. As per the prosecution case, the petitioner is said to have
given homeopathic drugs to the deceased. The present case has
been instituted for an offence under Section 304 of I.P.C. i.e.
culpable homicide not amounting to murder. It is further
submitted that the petitioner had no intention nor he had any



knowledge that the drug in question could cause death of the deceased. Hence, no offence under Section 304 I.P.C. is attracted in the present case. Even if the prosecution case is accepted to be true, at best an offence under Section 304A I.P.C. can be made out, which relates to death caused by negligence and Section 304A of I.P.C. is bailable offence.

Considering the facts and circumstances of the case, the provisional anticipatory bail granted to the petitioner by order dated 04.12.2019 is, hereby, confirmed in connection with Matihani P.S. case No.79 of 2019 pending in the court of Sri Junaid Alam, learned Judicial Magistrate, 1st class, Begusarai.

Let the viscera reports be returned to the Director, Forensic Science Laboratory, Bhagalpur.

(Sudhir Singh, J)

Narendra/-

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