

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54613 of 2022

Arising Out of PS. Case No.-33 Year-2022 Thana- GWALPARA District- Madhepura

1. Pinki Devi W/o Yogendra Paswan @ Kolhu Paswan R/V- Amona Bisanpur, P.S-Gwalpara, Dist- Madhepura
2. Yogendra Paswan @ kolhu Paswan Son of Late Bino Paswan R/V- Amona Bisanpur, P.S-Gwalpara, Dist- Madhepura

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anil Prasad Singh, Advocate.

For the Opposite Party/s : Mr. Ajit Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 28-03-2023 Heard Mr. Anil Prasad Singh, learned counsel appearing on behalf of the petitioners and Mr. Ajit Kumar, learned APP for the State.

2. The petitioners seek pre-arrest bail in connection with Gwalpara P.S. Case No. 33 of 2022 registered for the offence punishable under Sections 341, 323, 328, 354(A), 379, 504, 506 and 344 of the Indian Penal Code.

3. Prosecution story, in brief, is that an F.I.R. was lodged on the written complaint of the informant Kanchan Devi alleging that the accused persons named in the F.I.R. including the petitioner had administered poison in the milk to the five years old son of the informant.



4. Learned counsel appearing on behalf of the petitioner submitted that as per the F.I.R., the alleged incidence took place on 27.01.2022 and F.I.R. has been lodged on 21.02.2022 after a delay of 27 days without any plausible explanation. He further submitted that the allegation against the petitioner of administering poison to the five years old child of the informant is baseless.

5. Considering the aforesaid fact and to verify the genuinity of the allegation, this Court had directed to produce final report of the doctor. The matter was taken up on 13.03.2023, however the case was adjourned and finally on 22.03.2023, this Court had directed the Superintendent of Police, Madhepura to send a competent officer assigned by him along with the records of the case including the case diary.

6. Mr. Ajit Kumar, learned APP for the State informed this Court that Mr. Amar Kant Chaubey, Dy. S.P. (HQ), Madhepura and the Investigating Officer, Mr. Ramesh Kumar, A.S.I., Gwalpara P.S. are present in person before this Court along with the case diary and final injury report which was prepared on 23.02.2023. He referring to the aforesaid injury report informed this Court that the record reveals that the child was admitted, but no poison was found to be administered to the



child as per the opinion of the doctor. The incident had taken place on 27.01.2022 and the child was admitted on the same day and examined at Primary Health Centre, Gwalpara, Madhepura from where the child was referred to Sadar Hospital, Madhepura on 02.02.2022 for better treatment. Though the injury report which has been submitted before this Court has been prepared almost after one year duly signed by the Medical Officer, Sadar Hospital, Madhepura creates doubt but in absence of any record relating to the treatment of the child namely Banti Kumar, Son of Kanchan Devi, W/o Dayanand Mukhiya, has now been opined by the doctor that no treatment was required for the case of poison. The child was discharged on 02.02.2022.

7. Learned APP appearing on behalf of the State submitted that on perusal of the records and the injury report dated 23.02.2023, the falsity of the allegation made in the F.I.R. which has been lodged after 27 days is revealed from the injury report in which the doctor has finally opined that the case of the child was not of poison, as such no treatment was required in that respect.

8. Having heard the rival submissions of the parties, allegation made in the F.I.R. which has been instituted after a delay of 27 days on 21.02.2022 for the offence which has taken



place on 27.01.2022 and doctor has finally opined that the treatment was not required for the case of poison, I am of the opinion that the petitioner has made out a case to be granted pre-arrest bail.

9. The petitioner is directed to be released on pre-arrest bail, in the event of his arrest or surrender before the Court below within a period of four 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 learned Judicial Magistrate 1st Class, Udakishunganj in connection with Gwalpara P.S. Case No. 33 of 2022, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

10. The personal appearance of Mr. Amar Kant Chaubey, Dy. S.P. (HQ), Madhepura and the Investigating Officer Mr. Ramesh Kumar, A.S.I., Gwalpara P.S., Madhepura are dispensed with.

11. Accordingly, the bail application stands disposed of.

(Purnendu Singh, J)

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