

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.56098 of 2022

Arising Out of PS. Case No.-150 Year-2022 Thana- BARAULI District- Gopalganj

UPENDRA KUMAR SAH Resident of Village- Barauli,P.S.- Barauli District-
Gopalganj, Bihar 841405

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Binodanand Mishra,Advocate

For the Opposite Party/s : Mr.Gulnar Begum,APP

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

2 20-01-2023 Heard Mr. Binodanand Mishra, learned counsel for
the petitioner and the State.

The petitioner apprehends his arrest in connection with Barauli P.S. Case No. 150 of 2022 for the offence registered under Sections 304, 120(B) and 34 of the Indian Penal Code.

As per the prosecution story, the informant alleged that he took his pregnant daughter admitted to Aditya Hospital and deposited Rs. 40,000/- for operation. Subsequently, Dr. Upendra Kumar, the petitioner herein, the mother Manju Devi and Pinki Kumari (wife) as also Dr. R. Kishore started operation. After sometime, they came out from the operation theatre and without giving any information, absconded from the hospital.



Later, he entered the operation theatre only to see his dead daughter. He further came to know that the petitioner herein is not a Doctor rather is a quack having no degree of medicine as also that the Hospital too was unregistered one.

Learned counsel for the petitioner submits that after operation, a child was born but unfortunately, due to pregnancy related issues, the lady died and the informant who was in depression lodged the FIR. He later realized and gave a Notary Affidavit to this effect dated 22.08.2022 (Annexure 2). His last submission is that nothing was deliberate although there has been an unfortunate death of the daughter of the informant.

Learned APP for the State, on the other hand, opposes the prayer for bail.

From the fact that emerges that in an unregistered hospital, presenting himself as a Doctor he took amount, as alleged, and subsequently although by the grace of God, the child survived, the daughter of the informant is no more, the petitioner cannot exonerate himself from the responsibility for her unfortunate death.

Thus taking into account the kind of allegation that has come up against the petitioner, this Court despite being appreciable of the submissions put forward by Mr. Binodanand



Mishra, learned counsel for the petitioner is unable to extend the relief of anticipatory bail and the same is accordingly rejected.

If however, the petitioner surrenders before the concerned Court within four weeks from today, the Court will take into account the affidavit put forward by the informant as also the fresh facts that may have come on record and would dispose of the bail petition expeditiously without being prejudiced by any observation made in the present order.

(Rajiv Roy, J)

Jagdish/Neha/-

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