

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.58827 of 2023

Arising Out of PS. Case No.-209 Year-2023 Thana- KHIJARSARAI District- Gaya

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1. Radhe Krishna Kumar @ Radhe Krishan Kumar, aged about 26 years (M), Son of Kishori Prasad @ Kishori Singh
 2. Ranvijay Kumar, aged about 29 years(M), Son of Kishori Prasad @ Kishori Singh
- Both are Resident of Village- Kutlupur P.S- Khizarsarai District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Sharda Nand Mishra, Advocate

For the Opposite Party/s : Mr. Atul Chandra, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 06-12-2023 Heard Mr. Sharda Nand Mishra, learned counsel appearing on behalf of the petitioners and Mr. Atul Chandra, learned APP for the State.

2. The petitioners seek pre-arrest bail in connection with Khizarsarai P.S. Case No. 209 of 2023 registered for the offence punishable under Sections 419, 420, 353, 34 of the Indian Penal Code and Section 23 of the Pre-Conception and Pre Natal Diagnostic Techniques Act, 1994.

3. As per the allegation made in the FIR, without being registered, the petitioners were operating a pathology and ultrasound lab.

4. Learned counsel appearing on behalf of the petitioners submitted that petitioners were trying to get registration for opening a nursing home and the ultrasound



machine and pathology lab are essential requirement of opening a nursing home along with other equipments. Petitioners have clean antecedent and they are not involved either in giving report with respect to pre-natal diagnostic with respect to fetus to anyone nor anyone has claimed that the petitioner was engaged in such test to attract provision of Section 23 of the Pre-Conception and Pre Natal Diagnostic Techniques Act, 1994. Petitioners have not committed any forgery and on these grounds, petitioners seek to be released on pre-arrest bail.

5. Learned APP for the State vehemently opposed the prayer for grant of pre-arrest bail and submitted that day after another, in name of hospital several persons are running nursing home without getting registered and even without employing any doctor are operating and testing the patients. Petitioners do not deserve to be released on pre-arrest bail.

6. Having heard the rival submissions made by the parties, as well as, the allegation made in the FIR, it appears that the nursing home was closed on the day, the FIR was lodged, which admittedly shows that the petitioners have not violated the terms and conditions of the Pre-Conception and Pre Natal Diagnostic Techniques Act, 1994. Petitioners have clean antecedent. I am of the opinion that petitioners have, *prima*



facie, made out a case to be released on pre-arrest bail. The petitioners are directed to file undertaking along with land owner and two respectable persons of the area out of which one should be doctor, who had promised the petitioners to work in the nursing home.

7. If such affidavit is filed before the learned District Court, the petitioners, above named, are directed to be released on pre-arrest bail, in the event of their arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-1st, Gaya, in connection with Khizarsarai P.S. Case No. 209 of 2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C.

8. The Court below is directed to verify the criminal antecedent of the petitioners as stated in paragraph no. 3 of the bail application. If any other case is pending against the petitioners as what has been stated in paragraph no. 3, this order will lose its force automatically.

(Purnendu Singh, J)

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