

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.19203 of 2024

Arising Out of PS. Case No.-226 Year-2023 Thana- MAGADH MEDICAL COLLEGE
District- Gaya

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Diwas Sharma @ Diwash Sharma @ Divas Kumar Sharma, Son of late
Girjesh Sharma @ Girijesh Sharma, Resident of Mohalla- Magadh Colony,
Road No.5, P.S.- Magadh Medical, District- Gaya

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shailesh Kumar, Advocate
For the Opposite Party/s : Mr. Ram Sevak Choudhary, APP

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 03-05-2024

1. Heard learned counsel for the parties.

2. The petitioner has preferred this application for grant of anticipatory bail apprehending his arrest in connection with Magadh Medical College P.S. Case no. 226 of 2023 registered under sections 302, 323 and 504 of the Indian Penal Code.

3. As per the prosecution case, the informant states that her husband started to abuse and assault her. On the informant asking him not to do so, it is stated that he threw her two twin children aged about 4 months on the ground as a result of which they sustained injuries and died. Her husband, who is the petitioner herein, escaped.

4. It is submitted by learned counsel for the petitioner that the petitioner has been falsely implicated in the case by the



informant who happens to be his wife. The reason for false implication is matrimonial dispute between the parties. The manner of occurrence and death of the two children is other than what has been narrated in the FIR. In course of investigation, the informant gave a correct statement before the Magistrate that it was she herself because of matrimonial dispute who had killed the two children. It is further submitted that the witnesses have stated that the petitioner had gone away on his tempo. The petitioner has no criminal antecedent and the informant who was subsequently made accused has been enlarged on bail vide order dated 21.3.2024 passed in Cr. Misc. no.1160 of 2024.

5. The application for anticipatory bail is opposed by learned APP for the State who submits that so far as the point raised on behalf of the petitioner with respect to alibi is concerned the same can only be raised at the time of trial.

6. Having heard learned counsel for the parties and taking into consideration the allegations against the petitioner of having killed his two minor children and the allegations finding support from the contents of the postmortem report wherein besides external injuries found on the body of the children, the cause of death is said to be asphyxia due to throttling, the Court is not inclined to enlarge the petitioner on anticipatory bail and



the application is rejected.

7. The petitioner is directed to surrender in the learned
trial Court within a period of four weeks.

(Partha Sarthy, J)

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