

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.30253 of 2024

Arising Out of PS. Case No.-282 Year-2022 Thana- RAGHOPUR District- Supaul

Dr. Surjeet Kumar Son of Surendra Rai Resident Village- Mahua Singh Rai,
P.S.- Mahua, District- Vaishali, Bihar, Pin 844122

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Roshan Kumar, Adv. Mr. Nilanjan Chatterjee, Adv. Mr. Ujjawal Raj, Adv. Mr. Sahil Kumar, Adv. Mr. Anirvan Chaudhary, Adv.
For the Opposite Party/s :		Mr.Shantanu Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 22-05-2024 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case in connection with Raghapur P.S. Case No. 282 of 2022 dated 21.07.2022 registered for the offences punishable u/ss 269, 420, 120B read with section 34 of the Indian Penal Code and Section 40 of the Clinical Establishment Act.

3. As per the prosecution case, on 23.03.2020 the birth of child of Smt. Sujata Devi was conducted at Devrani City, Hospital through cesarean. The said child became severely ill after the delivery and was referred for treatment where cerebral palsy was confirmed. Upon which, the father of the child filed a



complaint before Public Redressal Officer and for this, a Committee was constituted and its report making the following allegations :-

(a) The hospital was being run without license and illegal operations are being conducted there.

(b) The operation of Smt. Sujata Devi was not conducted by a competent doctor.

(c) The post operation proper care was not taken.

(d) During treatment of the child in other hospital, it was diagnosed that the child was suffering cerebral palsy.

(e) Niranjan Mukhiya, the Director of the hospital in his written show cause has claimed that the operation was conducted by Dr. Surjeet Kumar (petitioner) but in discharge slip, the advice and other details have been written by the Director himself and such discharge slip not being issued by doctor is a serious offence.

(f) Dr. Surjeet Kumar (petitioner) has informed on telephone that he is working in AKM Medical College and Hospital, Muzaffarpur in the surgery department.

(g) The Director had got the operation done through some other person which is illegal.

(h) The Chief Medical Officer-cum-Civil Surgeon by



Letter No. 1286 dated 27.05.2022 had asked Niranjana Mukhiya to close down the hospital which was handed over to Niranjana Mukhiya on 29.06.2022 but till date the hospital has not been closed down.

4. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The case has been filed after two years and four months of the alleged incident. It is further submitted that the petitioner is a surgeon and working in A.K.M. Medical College and the petitioner was also working as a surgeon on the call at Devrani City Hospital. It is further submitted that medical science is a complex science. Learned counsel has further submitted that cerebral palsy is not result of cesarean operation. Cerebral palsy is caused by irregular brain development to the developing brain. This usually happens before a child is born but it can occur on birth early infancy. Learned counsel has placed reliance in the case of ***“Malay Kumar Ganguly vs. Dr. Sukumar Mukherjee and Ors. reported in (2009) 9 Supreme Court Cases 221”***. Learned counsel has further submitted that the petitioner has no concern with the alleged offence. The petitioner has no criminal antecedent as stated in para 3 of the bail petition.



5. Learned A.P.P. for the State has vehemently opposed the anticipatory bail petition of the petitioner.

6. Considering the aforesaid facts and circumstances of the case, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Birpur in connection with Raghopur P.S. Case No. 282 of 2022, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure with further condition :-

(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the bail bond of the petitioner is liable to be cancelled.

7. The application stands allowed.

(Chandra Prakash Singh, J)

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