

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**CRIMINAL MISCELLANEOUS No.33604 of 2024**

Arising Out of PS. Case No.-291 Year-2017 Thana- SAMASTIPUR COMPLAINT CASE  
District- Samastipur

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1. Nitin @ Nitin Kumar SON OF ANANT PRASAD RESIDENT OF VILLAGE - STATION ROAD PATORI , POLICE STATION- PATORI, DISTRICT- SAMASTIPUR
  2. SHANKAR @ SHANKAR RAM SON OF RAM BILAS RAM RESIDENT OF VILLAGE - WARD NO-03, MORSAND, POLICE STATION- PUSA, DISTRICT- SAMASTIPUR

... .. Petitioner/s

Versus

1. The State of Bihar
2. ASHA DEVI WIFE OF SANJAY RAUT RESIDENT OF VILLAGE - MUKTAPUR , POLICE STATION- KALYANPUR, DISTRICT- SAMASTIPUR

... .. Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr.Jitendra Narain Sinha  
For the Opposite Party/s : Mr.Prem Kumar Jha

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**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**ORAL ORDER**

- 2      27-05-2024
1. Heard learned Counsel for the petitioners and learned Additional Public Prosecutor for the State.
  2. This application, for grant of anticipatory bail, arises out of C.R. No. 291 of 2017 (T.R. No. 1509 of 2023), in which cognizance has been taken for the offences punishable under Sections 354/34 of the Indian Penal Code.
  3. The prosecution case, as per the complaint petition, filed by the Opposite Party No. 2 is that on 27.02.2017, the



complainant Opposite Party No. 2 went to Sadar Hospital for treatment where the petitioners took her to co-accused Dr. Kranti Kumar, where the doctor influenced the complainant and her family to get the D.N.C. done and demanded Rs. 2,500/- for the same. The doctor agreed to perform the D.N.C. for Rs. 1,500/- and in the O.T., the petitioners sent the husband of the complainant to bring tea and thereafter started mistreating and behaving vulgarly with the complainant, took her photographs and committed illegal acts upon her. The complainant was not pregnant and D.N.C. was not required.

4. Learned counsel for the petitioners submits that the petitioners have falsely been implicated in this case due to oblique motive and with malicious intention. On 05.02.2016, a team of six persons, including doctors, O.T. Incharge and others, was constituted to impart training under Comprehensive Abortion Care under the M.T.P. Act. Copy of the letter constituting the committee is annexed at Annexure P/2. The petitioner no. 1 is the O.T. Incharge and the petitioner no. 2 is the Peon. The complainant came at the camp and signed a consent form for D.N.C. and get the D.N.C done and took incentive of



Rs. 2000/- from the hospital. The occurrence has allegedly taken place on 09.02.2016, but the complaint has been lodged after about one year on 27.02.2017. Furthermore, after ten months of the occurrence, the complainant lodged a complaint before the hospital after which an inquiry was conducted by the doctor, who submitted enquiry report on 19.12.2016, clearly stating in the report that the petitioner no. 1 was not present in the O.T. with the complainant, the complaint is absurd and the allegation against the petitioners were found to be false. The learned Magistrate has not taken cognizance under Section 376 of the Indian Penal Code but has taken cognizance under Sections 354/504/34 of the Indian Penal Code.

5. Regards being had to the submissions advanced on behalf of the parties and taking into consideration the enquiry report submitted by the doctor, the consent form signed by the complainant and the fact that there is inordinate delay in lodging the complaint by the opposite party no. 2, I am inclined to grant the petitioners privilege of anticipatory bail.
6. This application is, accordingly, allowed.



7. Let the petitioners, above named, in the event of their arrest or surrender before the learned Court below within a period of four weeks from today, be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1<sup>st</sup> Class, Samastipur, in connection with C.R. No. 291 of 2017 (T.R. No. 1509 of 2023).

**(Anil Kumar Sinha, J.)**

Prabhakar Anand/-

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