

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.63689 of 2024

Arising Out of PS. Case No.-499 Year-2023 Thana- MAHUA District- Vaishali

Mr. Binod Kumar Sumam @ Binod Kumar Suman Son of Late Ramlakhan Singh Resident of Samastipur Road, P.S. - Mahua, District - Vaishali at Hajipur, Proprietor M/S Kunal Hospital, Situated at - Samastipur Road, P.S. - Mahua, District - Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Anurag Saurav, Advocate

For the Opposite Party/s : Mr. Satya Nand Shukla, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 25-09-2024 Heard learned counsel for the petitioner and the State.

2. Petitioner apprehends arrest in a case registered for the offences punishable under Sections 409, 420, 467, 468 of the Indian Penal Code.

3. As per prosecution case, informant, who was Civil Surgeon-cum-Member Secretary, District Health Society, Vaishali made a complaint to the Officer-In-Charge, Mahuwa, Vaishali *vide* Letter No. DHS/674/23-24 dated 25.07.2023 that Alok Surgical Hospital and Surya Clinic, Mahua conducted family planning operations and then the firm raised invoices. Thereafter, on the direction of District Magistrate, the invoices submitted by the firm were verified and accordingly, physical verification of 5% of the total list of family planning operation



patients was conducted as per instruction of the District Magistrate. Upon physical verification following irregularities were found in the process of family planning operation:

(i) In most of the cases, Catalysts have not been paid but in Invoices, the same has been demanded.

(ii) In some cases, Sunil Kumar has been mentioned as Catalyst but payment has been under the signature of Prem Kumar.

(iii) In some cases, signatures of Catalyst are different.

(iv) In some cases, Sarita Devi has duly signed but in some cases, she has put thumb impression.

Therefore, the aforementioned clinics have conducted fraudulent work and made claim against the rule for obtaining Government fund.

4. Learned counsel for the petitioner submits that petitioner is sole proprietor of a private nursing home, namely, M/S Kunal Hospital, Samastipur Road, P.S.-Mahuwa, District-Vaishali at Hajipur and petitioner is running the said nursing home independently without getting any Government aid. Present case has been instituted by Civil Surgeon-cum-Member Secretary, District Health Society, Vaishali only as a retaliatory measure after issuance of show cause by Hon'ble Court in MJC No. 2148 of 2019 for non-compliance of order dated 25.02.2019 in LPA No. 834 of 2018, whereby and where under Hon'ble



High Court has directed the Civil Surgeon to make the payment of admitted dues along with interest to the petitioner. In pursuance of the said direction, Civil Surgeon made the payment of admitted dues but he has not made the payment of interest for a period of fifteen years and present case has been instituted after fifteen years with an intention to create pressure to withdraw the contempt application and not to make demand of any interest on the admissible amount paid to the petitioner in lieu of the aforesaid direction. It is next submitted that after fifteen years the case has been instituted on the ground that some of the bills submitted by petitioner were excess and against the rule but in fact, petitioner has not received any excess payment and all the payment has been made after verification. Further submission is that the Respondent Authority *vide* order dated 26.09.2023, rejected the inadmissible claim of petitioner by way of reasoned order, as directed by Hon'ble Division Bench in LPA (Annexure-P/19). Lastly, he submits that Civil Surgeon rejected some of the claims of petitioner and after direction of Hon'ble High Court in the contempt application, passed a reasoned order and Hon'ble High Court *vide* order dated 05.10.2023 granted liberty to the petitioner to agitate insofar as inadmissible claims as mentioned



in order dated 26.09.2023 (Annexure-P/20). Petitioner claims clean antecedent.

5. Learned A.P.P. for the State vehemently opposed the bail application.

6. Considering the fact that F.I.R. has been lodged after delay of 15 years and only after filing of the contempt petition and clean antecedent, this anticipatory bail is allowed and it is ordered that let the above named petitioner in the event of his arrest/surrender before the court below within a period of eight weeks from today, be enlarged on bail on furnishing bail-bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Vaishali at Hajipur in connection with Mahuwa P. S. Case No. 499 of 2023, subject to condition as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Singh, J)

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