

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.78526 of 2023

Arising Out of PS. Case No.-72 Year-2023 Thana- KHUTAUNA District- Madhubani

RAMUDGAR YADAV @ RAM UDAGAR YADAV Son of Adhiklal Yadav
R/o vill - Khaira Math, P.S. - Jaynagar, Distt. - Madhubani

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bimal Kumar

For the Opposite Party/s : Mr. Mohammad Sufyan

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

- 2 10-01-2024 1. Heard learned Counsel for the petitioner and learned Additional Public Prosecutor for the State.
2. This application, for grant of anticipatory bail, arises out of Khutouna Police Station Case No. 72 of 2023, dated 07.06.2023, disclosing offences under Sections 420/34 of the Indian Penal Code and Sections 22/23 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994.
3. The prosecution case, as per the First Information Report, is that on 06.06.2023, as per the office letter no. 344 dated 03.06.2023 of the District Magistrate, Madhubani, the informant, In-charge Medical Officer, Community Health Centre, Khutouna, formed an enquiry team under the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, being Team No.



1, in which, Mr. Balendu Narayan Pandey, Senior Deputy Collector, Madhubani, Mr. Alok Kumar, Block Development Officer, Khutouna, Mr. Rama Kumar, Circle Officer, Mr. Dhanajay Kumar, Station House Officer, Khutouna, Dr. Bimal Bihari, Medical Officer, Community Health Centre, Khutouna, were included. The enquiry team proceeded for verification of the ultra-sound centres situated in Khutouna and during the process they visited several ultra-sound centres, including the centre run by the petitioner in the name and style of Star Ultrasound Centre. Upon search, the team found 25 blank and 01 filled prescription referring to Star Ultrasound Centre, 04 reporting pad, out of which, 01 was blank and 03 was filled upon which Star Ultrasound Centre was mentioned and 01 envelope and flex board upon which Star Ultrasound Centre was mentioned. The team enquired from the nearby people and found that the Star Ultrasound Centre was being run by the petitioner in the rented house of Manoj Sahu and Kishun Sahu. It has further been alleged that the Star Ultrasound Centre was being run without any registration and in illegal manner.

4. Learned counsel for the petitioner submits that the



petitioner is innocent and has been implicated in the present case with oblique motive. The allegation has been made against the petitioner that he has been running the Star Ultrasound Centre, from where the blank prescription slip, referring pad and other articles were recovered, but in the First Information Report there is no mention about the ultrasound machine or any other apparatus being recovered from the Ultrasound Centre in order to show that laboratory was being run by the petitioner, where ultrasound machine, imaging machine, scanner or any other equipment were kept for determination of sex of the foetus.

5. He further submits that potable equipments, having the potential for determination of sex during the pregnancy or selection of sex before conception, were not found, and in the First Information Report the informant has not mentioned that any equipments were found in the centre of this petitioner or in any other centres as mentioned in the First Information Report. He next submits that the petitioner has no concern with the Star Ultrasound Centre and he has been made accused on the basis of disclosure of his name by the co-villagers.



6. I have heard learned counsel for the parties and have gone through the First Information Report, including the impugned order.
7. From perusal of the First Information Report, it appears that the prescription slip, reporting pad, flex board and other articles have been recovered from the Star Ultrasound Centre, of which the petitioner is the owner and during the course of investigation, the witnesses have supported the case of the prosecution that the petitioner was running the Star Ultrasound Centre without having any registration and in violation of the PC & PNDT Act. The seizure list has also been prepared by the informant which shows that the articles have been recovered from the rented house of Manoj Sahu and Kishun Sahu in which the petitioner was running the Star Ultrasound Centre.
8. The gravamen of the allegation against the petitioner pertains to violation of provisions of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994. Section 6 of the Act prohibits the use of pre-natal diagnostic techniques, including the ultrasonography for the purpose of determination of the



sex of foetus. Section 18 says that no person shall open the laboratory or centre, having ultra-sound machine or imaging machine or scanner or any other technology, capable of undertaking determination of sex of foetus and sex selection, unless such centre, laboratory or clinic is duly registered under the Act. Section 23 provides that any violation of the provisions of the PC & PNDT Act, constitutes a penal offence. Section 27 states that all offences under the said Act shall be cognizable, non-bailable and non-compoundable.

9. In view of the nature of allegation and materials collected during the raid by the enquiry team and the fact that during course of investigation, the witnesses have supported the allegation against the petitioner, there is criminal antecedent against the petitioner having similar offence under the said Act, in my opinion, a prima facie case is made out against the petitioner, accordingly, the petitioner does not deserve privilege of anticipatory bail.

10. This application is, accordingly, dismissed.

(Anil Kumar Sinha, J)

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