

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.51597 of 2024

Arising Out of PS. Case No.-686 Year-2023 Thana- SUPAUL District- Supaul

Dr. Alok Kumar @ Alok Kumar, son f Sri Virendra Narayan Chaudhary,
resident of Ward No. 17, Koshi Road, P.S- Supaul, Dist- Supaul

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sandeep Kumar, son of Sri Mahendra Pawan, Sakin-Barbitta, Ward No.-06,
P.S-Kisanpur, Dist- Supaul-852131

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bipin Bihari, Adv.

For the Opposite Party/s : Mr. Madan Kumar, APP

CORAM: HONOURABLE MR. JUSTICE S. B. PD. SINGH

ORAL ORDER

5 15-02-2025 Heard the learned counsel appearing on behalf of

petitioner and learned Additional Public Prosecutor for the

State.

2. The petitioner is apprehending his arrest in a
case registered for the offences punishable under Sections
304 & 34 of the Indian Penal Code lodged.

3. The prosecution case as per F.I.R is that on
23.08.2023, the sister-in-law (*Bhabhi*) of the informant
namely, Munni Devi was brought to the Sadar Hospital,
Supaul for the purpose of delivery as she was pregnant, but
due to her critical condition, she was referred to Darbhanga.
It is further alleged that while informant's side were



preparing to go to Darbhanga, one Pradeep Kumar (broker of petitioner) met the informant in Hospital campus and suggested him to take the patient at the clinic of Doctor Alok Kumar (petitioner) at Narayani Nursing Home, Supaul. The victim was, thereafter taken to the clinic of the petitioner, where the informant was demanded Rs. 24,000/- as admission charge. The informant deposited Rs. 19,000/- to the Hospital and after that the victim was taken to I.C.U but after two hours, the petitioner-Dr. Alok Kumar and one of his staffs came out from the I.C.U and informed the informant that his sister-in-law (*Bhabhi*) and her newly born baby have died and also asked him to receive the dead body. When the informant asked him that he assured him for the proper treatment, then Dr. Alok Kumar (petitioner) snatched the prescription and abused the informant. Hence, the F.I.R.

4. It is submitted by learned counsel for the petitioner that petitioner is innocent and he has falsely been implicated in this case. The patient was taken to the nursing home on its own volition by a private vehicle. It is further submitted that for the alleged occurrence of 23.08.2023, the F.I.R was registered on 01.09.2023 without explaining the



delay in lodging the F.I.R. The petitioner is a registered, qualified, skilled and competent Doctor and possesses a qualification of M.D. Physician from Yerevan State Medical University, Armenia and is registered in the Bihar Council of Medical Registration. The petitioner's nursing home is also registered under Clinical Establishment Act, 2010. There is absolutely no allegation regarding any act or conduct of this petitioner that indicated an intention to cause death to the informant's sister-in-law (*Bhabhi*). Learned counsel has placed reliance of a judgment of Hon'ble Apex Court reported in AIR 2005 SC 3180(Jacob Mathew vs State of Punjab & Anr. The relevant paragraph of the judgment reads as under:-

“(3) A professional may be held liable for negligence on one of the two findings: either he was not possessed of the requisite skill which he professed to have possessed, or, he did not exercise, with reasonable competence in the given case, the skill which he did possess.....”

5. *Per contra*, learned A.P.P appearing on behalf of the State has vehemently opposed the prayer for anticipatory bail of the petitioner and submitted that



petitioner is responsible for the death of the sister-in-law (*Bhabhi*) of the informant. The witness Akhilesh Kumar has stated in para 6 of the case diary that due to negligence of the petitioner and other staffs of his clinic, his sister has died. The police during investigation has also found that due to negligence of the petitioner and other staffs of the clinic, sister-in-law of the informant and her baby died. Moreover, the petitioner is accused in one other case of similar nature, apart from the present case. The petitioner was also not entitled to make treatment of a Gynecological problem without having any lady doctor or having an expertise in that field/stream.

6. Considering the fact that sister-in-law(*Bhabhi*) of the informant died due to negligent treatment by the petitioner who is a doctor, without having any expertise in the Gynecological field and the petitioner being involved in other case of similar nature, keeping in view of the fact that investigation is still going on, this Court is not inclined to grant privilege of anticipatory bail to the petitioner. The prayer for grant of anticipatory bail to the petitioner stands rejected.



7. The petitioner may surrender before learned Court below and pray for regular bail which may be considered by the learned Court below without being prejudiced by the order of this Court.

(S. B. Pd. Singh, J)

prabhakar/-

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