

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 97 of 2021**

Arising Out of PS. Case No.-210 Year-2020 Thana- SAHPUR District- Bhojpur

Chandra Prakash Gupta @ Bablu, aged about 50 years, Sex-Male, Son of Jagdish Gupta, Resident of village- Shahpur, Police Station- Shahpur, District- Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Choubey Jawahar, Advocate
For the State : Ms. Suman Kumari Singh, APP
For the Informant : Mr. Nitya Nand Tiwary, Advocate

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT**

Date : 24-09-2021

The matter has been heard via video conferencing.

2. Heard Mr. Choubey Jawahar, learned counsel for the petitioner; Ms. Suman Kumari Singh, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State and Mr. Nitya Nand Tiwary, learned counsel for the informant.

3. The petitioner apprehends arrest in connection with Shahpur PS Case No. 210 of 2020 dated 04.07.2020, instituted under Section 304 of the Indian Penal Code.

4. The allegation against the petitioner, who is the owner of a medicine shop, is that when the informant went to his shop with his nephew who was ill, he had administered an



injection due to which his condition deteriorated and despite him having been taken to the Referral Hospital, from where he was asked to go to a better hospital and on the way, he died. Thus, it is alleged that due to administration of wrong medicine, the death had occurred.

5. Learned counsel for the petitioner submitted that he is running a medicine shop from the year 2004 and there has been no complain and the present allegation is false as no such act has been committed by him. It was submitted that later the informant himself has filed compromise petition before the Court below stating that due to him not being in proper state of mind, the name of the petitioner has been taken and that he has no grievance against him. Learned counsel submitted that the petitioner has no reason or motive to commit any crime, that too, of such a serious nature of taking the life of a young boy when he sells medicine for easing the illness and pain of others. It was further submitted that during investigation, witnesses have stated with regard to the petitioner being innocent.

6. Earlier, the Court had asked learned APP to obtain the up-to-date legible photo copy of the entire case diary of Shahpur PS Case No. 210 of 2020, from the Superintendent



of Police, Bhojpur along with the postmortem report. Learned APP submitted that the same has been received.

7. Learned counsel submitted that there cannot be any reason or motive for the petitioner to commit the crime as he runs a medicine shop i.e., his livelihood and also that there was no enmity or *mens rea* or even any reason to have committed the crime. In fact, it was submitted that when the condition of the nephew of the informant did not improve, it has been stated in the FIR that it was the petitioner who arranged for sending him to a Health Centre.

8. Learned APP submitted that the postmortem report does not disclose anything. However, it was submitted that as per the allegation, the petitioner had administered a wrong injection.

9. Learned counsel for the informant submitted that because of some misconception and non-recognition of the petitioner, his name was taken in the FIR but he is not aggrieved and does not hold the petitioner responsible for the death of his nephew and that is why he has filed a compromise petition in the Court below.

10. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, as there does not appear to be any reason for the petitioner to commit



the crime being only the proprietor of a medicine shop and later on, the informant himself filing a compromise petition before the Court stating that due to misconception and being told by somebody present there, he had named the petitioner and alleged certain things against him but having realized that he has no role in the death of his nephew, he has filed compromise petition, which has been supported by learned counsel for the informant, the Court is inclined to allow the prayer for pre-arrest bail.

11. Accordingly, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, 1st, Bhojpur, Arrah in Shahpur PS Case No. 210 of 2020, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973 and further, and further, (i) that one of the bailors shall be a close relative of the petitioner and (ii) that the petitioner shall co-operate with the Court and police/prosecution. Failure to co-operate shall lead to cancellation of his bail bonds.

12. It shall also be open for the prosecution to bring any violation of the foregoing conditions by the petitioner, to the



notice of the Court concerned, which shall take immediate action on the same after giving opportunity of hearing to the petitioner.

13. The petition stands disposed of in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P. Kumar

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