

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.42246 of 2018

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1. SATENDRA KUMAR @ SATYENDRA KUMAR, S/o Chandrika Ram,
R/o Village- Dubwalia, P.S.- Kopa, District- Saran at Chapra.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nawal Kishore Singh, Adv.

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

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 12-09-2018 Heard learned counsel for the petitioner as well as

learned APP.

2. This case has been filed under Sections 341,

323, 354, 379, 504/34 of the IPC and maximum sentence

prescribed is relating to Section 354 IPC, out of the same, up to

seven years.

3. In **Arnesh Kumar v. State of Bihar &

another** reported in **2014(3) P.L.J.R. 314 (SC)**, it has been observed

as follows:-

*“13. Our endeavour in this judgment is to ensure
that police officers do not arrest accused unnecessarily
and Magistrate do not authorize detention casually and
mechanically. In order to ensure what we have
observed above, we give the following direction:*

*(1) All the State Governments to instruct its
police officers not to automatically arrest when a case
under Section 498-A of the IPC is registered but to*



satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41, Cr.PC;

(2) All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii);

(3) The police officer shall forward the check list duly filed and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

(4) The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;

(5) The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of police of the district for the reasons to be recorded in writing;

(6) Notice of appearance in terms of Section 41A of Cr.PC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the District for the reasons to be recorded in writing;

(7) Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before High Court having territorial jurisdiction.

(8) Authorizing detention without recording reasons as aforesaid by the judicial Magistrate concerned shall be



liable for departmental action by the appropriate High Court.”

4. That being so, instant petition is disposed of in
terms thereof.

(Aditya Kumar Trivedi, J)

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