

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66928 of 2022

Arising Out of PS. Case No.-3 Year-2021 Thana- MAHILA P.S. District- Munger

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Dhirendra Verma @ Dhirendra Kumar Verma, S/O Late Hari Gopal Prasad, R/o Urmila Sadan, Satish Nagar, P.S.- Kasim Bazar, Distt- Munger at present residing at Belan Bazar, Gurudwara Gali (in front of Dr. Shashi Lata), District- Munger.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Richa Raj, W/O Dhirendra Verma @ Dhirendra Kumar Verma, D/O Sri Rajendra Sinha, R/O Village- Vasudeopur, Kayastha Tola, P. S.- Vasudeopur, Distt- Munger.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr. Binod Kumar Sinha
For the Opposite Party/s :	Mr. Tarkeshwar Nath Thakur
	Mr. Ajit Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 21-12-2022 Heard learned counsel for the petitioner, learned counsel for the informant and learned APP for the State.

The petitioner seeks bail in anticipation of his arrest in a case registered for the offences punishable under Sections 498A, 506 of the Indian Penal Code.

The learned counsel for the petitioner submits that the petitioner has antecedent of one case which was instituted by the present informant. It is next submitted that the informant had earlier instituted Mahila P. S. Case No.52 of 2019, in which the petitioner had approached this Court seeking anticipatory bail by filing Criminal Miscellaneous No.14886 of 2020. The said



Criminal Miscellaneous was rejected by order dated 15.03.2021. Against the said order dated 15.03.2021 in Cr. Misc. No.14886 of 2020, the petitioner moved before the Hon'ble Supreme Court by filing S.L.P. (Criminal) No.8787 of 2021, the matter is presently pending before the Hon'ble Supreme Court and the Hon'ble Supreme Court has stayed the warrant of arrest issued against the petitioner in connection with Mahila P. S. Case No.52 of 2019. It is next submitted that thereafter, the informant instituted the present case in which the petitioner has moved before this Court seeking anticipatory bail in the present application. It is further submitted that this matter was taken up on 12.12.2022 and no coercive step against the petitioner was directed to be taken.

The learned counsel for the petitioner next submits that when the matter was taken up on 19.12.2022, it was submitted that process under Section 82 Cr.P.C. was issued and thereafter, action was taken under Section 83 Cr.P.C. and the attachment of the property of the petitioner was done by the police. The learned counsel thus submits that the law is very clear as enunciated by the Hon'ble Supreme Court in the case of *Arnesh Kumar vs. the State of Bihar and another reported in (2014) 8 SCC 273*, that how an accused is to be dealt where the



punishment of the offence is seven years or less than that.

It is next submitted that in complete breach of the law laid by the Hon'ble Supreme Court, the Investigating Officer of the case transgressed the law and attached the property of the petitioner. The learned counsel further submits that process under Section 82 Cr.P.C. was issued in November, 2022, but prior to that the petitioner never received any notice under Section 41(A) of the Cr.P.C. It is also submitted that it has been specifically pleaded in the anticipatory bail application that the petitioner on 10.02.2022 had sent a letter through speed-post to the S.H.O. Mahila Police Station, but the same was returned on 11.02.2022 with a remark "*Lene Se Inkar*", thereafter the petitioner had approached the Superintendent of Police, Munger through E-mail on 23.02.2022, but no reply was received from the side of the Superintendent of Police, Munger also. The learned counsel thus submits that the S.H.O. of Mahila Police Station refused to receive the letter sent by the speed-post to her by the petitioner in February, 2022, thereafter no notice under Section 41(A) of the Cr.P.C. was issued and in complete breach of the law as enunciated by the Hon'ble Supreme Court, the petitioner was subjected to proceedings under Sections 82 and 83 of the Cr.P.C.



In view of the submissions made by the learned counsel for the petitioner, the Superintendent of Police, Munger, the Deputy Superintendent of Police, Munger and the Station House Officer, Mahila P. S. along with the Investigating Officer are present. The Superintendent of Police, Munger is a young and a dynamic officer and he submits that he has joined on 16.04.2021 and whatever happened in the present case happened before his joining and he was not aware, but very fairly submits that the process initiated was not in accordance with the law and no notice ever was served on the petitioner in terms of Section 41(A) of the Cr.P.C. The Court takes note of the submission made by the Superintendent of Police, Munger, at least the Superintendent of Police has shown courage to accept the fact that an irregularity or a mistake was committed by not issuing under Section 41(A) of the Cr.P.C., the Court appreciates that.

At this stage, the learned counsel for the petitioner submits that this is the second case under Section 498(A) of the I.P.C. filed by the informant against the petitioner and he is already before the Hon'ble Supreme Court in the first case as aforesaid. It is next submitted that no doubt, offence under Section 498(A) of the I.P.C. is the continuing offence, but then



that does not mean that the informant should take advantage of the same.

The learned counsel for the petitioner at this stage submits that the purpose of arrest is not to punish but to ensure that investigation is not hampered. The petitioner will cooperate in the investigation and will present himself as and when required by the Investigating Officer, so that the truth comes out.

The learned counsel for the informant as well as the learned A.P.P. opposes the bail application, but are not able to meet the submissions of the learned counsel for the petitioner that this is the second F.I.R. against the petitioner instituted by the informant under Section 498(A) of the I.P.C.

Considering the submissions made by the learned counsel for the petitioner, the petitioner, above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 5,000/- (Rupees Five Thousand) with two sureties of the like amount each to the satisfaction of the learned Court below where the case is pending in connection with Mahila P. S. Case No.03 of 2021, subject to the conditions laid down under Section 438(2) of the



Cr.P.C.

The application stands allowed.

The personal appearance of the Superintendent of Police, Munger, the Deputy Superintendent of Police, Munger, the Station House Officer, Mahila P. S. and the Investigating Officer Pawan Kumar Paswan is dispensed with. The personal appearance of the petitioner and the informant is also dispensed with.

(Satyavrat Verma, J)

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