

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65605 of 2023

Arising Out of PS. Case No.-21 Year-2023 Thana- MAHILA P.S. District- Bhojpur

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AMRENDRA KUMAR SINGH @ AMRENDRA KUMAR@ AMRENDRA
SINGH SON OF SRI CHANDRAKANT SINGH RESIDENT OF
MOHALLA- PARARIA, PS- BARHARA, DISTT- BHOJPUR

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Indra Bhushan Tiwary, Adv.

For the Opposite Party/s : Mr. Tapeswar Sharma

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

3 08-12-2023 Heard the learned Advocate for the petitioner and the
learned Additional Public Prosecutor for the State.

2. The petitioner apprehends his arrest in connection with Mahila P.S. Case No. 21 of 2023, dated 01.05.2023, registered under Sections 341, 323, 504, 506, 498(A)/34 of the Indian Penal Code and Sections 3/4 of the Dowry Prohibition Act.

3. The petitioner is the husband of the informant, who has been implicated in this case. It is surprising to note that in the case of **Arnesh Kumar Vrs. State of Bihar & Another, reported in 2014 (8) SCC 273**, it is clearly stated that no person having been implicated in a case under Section 498(A) of the I.P.C, shall not be arrested by the Police, and at the first instance



the Investigation Officer shall issue notice upon the accused under Section 41(A) of the Cr.P.C. and record his statement. If after recording his statement any incriminating material is found, requiring the Investigating Officer to conduct the investigating, taking the accused in custody, the Investigating Officer shall submit a notice before the learned Magistrate under Section 41(1)(b) (ii) of the Cr.P.C. along with the case diary.

4. The learned Magistrate on being satisfied may direct arrest of the accused in a case under Section 498A of the I.P.C. A Circular being Order No. 1 of 2023, with corresponding Memo No. 62973/AD(Rules), dated 14th September, 2023 was circulated stating the direction of the Hon'ble Supreme Court in the case of **Arnesh Kumar (supra)** to the Director General of Police, Patna, Bihar for compliance, but the same is not being complied and the Police is running after the assessed person, thereby compelling the accused to file anticipatory bail before this Court.

5. Under such circumstances, the Director General of Police, Patna, Bihar, is specifically directed to comply with the above direction of the High Court of Judicature at Patna in its true letter and spirit.

6. Non-compliance of the direction made in **Arnesh**



Kumar (supra), may cause serious consequent including personal attendance of the Director General of Police, Patna, Bihar.

7. Therefore, the Director General of Police, Patna, Bihar is directed to give proper instructions to the Officers subordinate to him in all Police Station for strict compliance of the above mentioned memo.

8. A copy of this order along with a copy of the above mentioned Memo be sent to the Director General of Police, Patna, Bihar through the Registry.

9. As the petitioner cannot be arrested in a case under Section 498(A) of the I.P.C. without compliance of Section 41(A) of the Cr.P.C.

10. Learned Additional Public Prosecutor for the State has vehemently opposed the prayer for bail of the petitioner.

11. Accordingly, the anticipatory bail application is allowed.

12. In view of such circumstances, let the above named petitioner, be released on bail, in the event of his arrest or surrender before the learned Court below within a period of six weeks from the date of receipt/production of a copy of this order, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each, one of whom must be a



local surety having landed property, to the satisfaction of the learned S.D.J.M., Bhojpur at Ara in connection with Mahila P.S. Case No. 21 of 2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C., with further condition that he must comply the conditions, namely, he would not persuade or threaten the witnesses and would be present in the Court below during trial on all dates. The petitioner will be made available for interrogation by the Police.

13. Failure on the part of the petitioner to comply with any of the above directions will entail the learned court below to cancel the bail without any further order.

(Bibek Chaudhuri, J)

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