

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.5213 of 2024

Arising Out of PS. Case No.-429 Year-2022 Thana- PAROO District- Muzaffarpur

Santosh Kumar Mahto Son Of Rajendra Mahto Resident Of Village-
Fulwariya, P.S.- Paroo, Distt.- Muzaffarpur.

... .. Petitioner/S

Versus

1. The State Of Bihar.
2. Puja Kumari W/O Santosh Kumar Mahto Resident Of Village- Fulwariya,
P.S.- Paroo, Distt.- Muzaffarpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Raju Kumar, Advocate
For the State	:	Mr. Braj Kishore Pd., APP
For the O.P. No.2	:	Mr. Pranav Kumar, Advocate
	:	Mr. Rajeev Ranjan II, Advocate
	:	Mr. Anjana Yadav, Advocate
	:	Mrs. Kumari Rupa, Advocate
	:	Mrs. Kumari Seema, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

3 08-05-2024 Heard the parties.

2. As per the prosecution story, the petitioner had assaulted the informant due to non-fulfillment of demand of dowry.

3. Learned counsel appearing on behalf of the petitioner seeks to withdraw the present application, considering the fact that he will avail remedy in accordance with Section 41(1) Cr.P.C. in light of the law laid down by the Apex Court in the Case of *Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273*, which deals with the matter of unnecessary arrest under Section 498A IPC, considering the fact that till date charge-



sheet has not been submitted.

4. Recently in the case of **Asfak Alam Vs. State of Jharkhand & Anr.** in **Cr. Appeal No.2207 of 2023**, the Apex Court issued a directive to circulate circulars, notifications and instructions aimed at ensuring strict adherence by police authorities and criminal courts to follow the guidelines laid down by the Apex Court in **Arnesh Kumar case (Supra)**.

5. The Hon'ble Supreme Court has made following observations:

“10. We are of the opinion that if the provisions of Section 41 CrPC which authorises the police officer to arrest an accused without an order from a Magistrate and without a warrant are scrupulously enforced, the wrong committed by the police officers intentionally or unwittingly would be reversed and the number of cases which come to the Court for grant of anticipatory bail will substantially reduce. We would like to emphasise that the practice of mechanically reproducing in the case diary all or most of the reasons contained in Section 41 CrPC for effecting arrest be discouraged and discontinued.

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

11.1. All the State Governments to instruct its police officers not to automatically arrest when a case under Section 498-A IPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41 CrPC;”



6. The concerned investigating authority must abide by the law laid down by the Apex Court in case of **Arnesh Kumar case (Supra)**, as well as, communication made by this Court vide Circular Order No.01 of 2023.

7. Accordingly, the bail application stands disposed of.

(Purnendu Singh, J.)

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