

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.35792 of 2024

Arising Out of PS. Case No.-33 Year-2015 Thana- NALANDA COMPLAINT CASE
District- Nalanda

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Bipin Yadav son of Naresh Yadav Village- Laxmipur Ps- Manpur Dist-
Nalanda

... .. Petitioner/s

Versus

1. The State of Bihar
2. Sunaina Devi D/o- Rama Yadav Village- Hargawan Ps- Manpur Dist-
Nalanda

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Pramod Kumar Sinha, Advocate

For the Opposite Party/s : Mr.Ramchandra Sahni, APP

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CORAM: HONOURABLE MR. JUSTICE ARVIND SINGH CHANDEL
ORAL ORDER

2 10-06-2024 Heard learned counsel for the petitioner and learned
counsel for the State.

2. Petitioner apprehends arrest in connection with
Complaint Case No. 33C of 2015 registered for the offence
under Section 498(A) of the I.P.C.

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.

(Arvind Singh Chandel , J)

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