

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36101 of 2023**

Arising Out of PS. Case No.-246 Year-2019 Thana- SIWAN COMPLAINT CASE District-
Siwan

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NAFIS AHMAD @ NAFIS AHMAD HASMI Son of Allauddin R/o Village -
Aurangabad, P.S.- Salempur, District - Deoria (U.P.)

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Sabana Khatoon Wife of Nafis Ahmad @ Nafis Ahmad Hasmi D/o Batak Mian, R/o Village - Aurangabad, P.S.- Salempur, District - Deoria (U.P.) at present R/o Village - Hasanpura, P.S.- M.H. Nagar, District - Siwan

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Udit Narayan Singh, Adv.
For the Opposite Party/s	:	Mr. Kanishk Kaustubh, Adv.
		Mr. Shikhar Mani, Adv.
For the State	:	Mr.Bhanu Pratap Singh, APP

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

3 08-01-2024 Heard learned counsel for the petitioner, learned
counsel for the Complainant and learned Additional Public
Prosecutor for the State.

2. The petitioner is apprehending his arrest in a case in
connection with A.B.P. No. 556/ 2023 arising out of Complaint
Case No. 246 of 2019 dated 31.01.2019 registered for the
offences punishable u/s 498A of the Indian Penal Code and u/s 4
of the Dowry Prohibition Act.

3. As per the prosecution case, the petitioner and the
co-accused persons are alleged to have tortured the Complainant
mentally and physically due to non-fulfillment of demand of
dowry. It is also alleged that the petitioner and the co-accused



persons ousted the Complainant from her matrimonial house after snatching her jewellery, cloth worth Rs. 1,00000/-.

4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in this case. The petitioner neither demanded any dowry nor tortured the Complainant. It is further submitted that the petitioner is the husband of the Complainant and he has no concern with the alleged offence. The allegation of snatching the said articles against the petitioner is ornamental. The petitioner has relied upon the judgment of this Court in the case of **"Md. Naimul Haque Ansari @ Naimul Haque Ansari & Ors. Vs. The State of Bihar, reported in 2006(3) PLJR 182."** Learned counsel has further submitted that Section 498A of the IPC is triable by the Magistrate. Learned counsel has further relied on the judgments in the case of **Satendra Kumar Antil Vs. Central Bureau of Investigation and Another (2022) 10 SCR 351** and **Md. Asfak Alam Vs. The State of Jharkhand & Anr passed in Criminal Appeal No(s). 2207 of 2023 arising out of Special Leave Petition (CRL.) No. 3433 of 2023.** The petitioner has no criminal antecedent as stated in para 3 of the bail petition.

6. Learned A.P.P. for the State and learned counsel for the Complainant have opposed the prayer for anticipatory bail of the petitioner.



7. Considering the aforesaid facts and circumstances of the case as well as the nature of allegation against the petitioner, let the above named petitioner, in the event of his arrest/ surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/-(Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned Court concerned, Siwan in connection with A.B.P. No. 556/ 2023 arising out of Complaint Case No. 246 of 2019, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure with further condition :-

(i) The petitioner is directed to remain physically present before the learned Court below on each and every date, failing which on two consecutive dates without reasonable cause, the prosecution will be at liberty to move for cancellation of his bail bond.

8. If so advised, either of the parties will be at liberty to make an application before the Court below for referring the matter to the District Mediation Centre for the purpose of reconciliation or one time settlement.

9. The application stands allowed.

(Chandra Prakash Singh, J)

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