

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.69562 of 2023

Arising Out of PS. Case No.-11 Year-2021 Thana- MAHILA PS District- Jehanabad

NISHU KUMAR SON OF AMRESH SINGH @ AMRESH SHARMA
RESIDENT OF VILLAGE- MANSA BIGHA, PS- KHIZERSARAI AND
DISTT- GAYA

... .. Petitioner/s

Versus

1. The State of Bihar
2. PRITI KUMARI DAUGHTER OF VINAY SHARMA RESIDENT OF
VILLAGE- NANDANPURA, PS- TEHTA OP (MAKHDUMPUR), DIST-
JEHANABAD

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Manish Kumar No.2, Advocate. Mr. Aryan Singh, Advocate.
For the State	:	Mrs. Gulnar Begum, Advocate.
For O.P. No.2	:	Mr. Ravi Shankar Pankaj, Advocate.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

5 10-04-2024 Heard Mr. Manish Kumar No.2, learned counsel

along with Mr. Aryan Singh, learned counsel appearing on

behalf of the petitioner; Mrs. Gulnar Begum, learned APP for

the State and Mr. Ravi Shankar Pankaj, learned counsel for the

opposite party no.2.

2. Petitioner seeks pre-arrest bail in connection with

Jehanabad Mahila P.S. Case No. 11 of 2021, registered for the

offences punishable under Section 341, 323, 427, 498A and

504/34 of the Indian Penal Code and Sections 3 & 4 of the

Dowry Prohibition Act.

3. Considering the fact that the parties have not



reconciled till date, I do not find it proper that the matter should be kept pending before this Court.

4. The Apex Court in the Case of ***Arnesh Kumar v. State of Bihar, (2014) 8 SCC 273***, has laid down guideline in dealing with the matter of unnecessary arrest in cases under Section 498A IPC. It held as follows:-

“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;”

5. Recently in the case of **Asfak Alam Vs. State of Jharkhand & Anr. in Cr. Appeal No.2207 of 2023** 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)**.



6. In view of the aforesaid principle of law laid down by the Hon’ble Supreme Court, the petitioner has remedy under Section 41(1) Cr.P.C.

7. Accordingly, the bail application stands disposed of.

(Purnendu Singh, J)

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