

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.85404 of 2023

Arising Out of PS. Case No.-1284 Year-2020 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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Najma Khatoon Wife Of Md. Jamil Resident Of Village - Akha Panchayat
Mohanpur, P.S. - Bakhari, District - Begusarai

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Tajo Khatoon Wife Of Md. Samim Resident Of Village - Akha Panchayat
Mohanpur, P.S. - Bakhari, District - Begusarai, At Present D/O. Md. Faruk,
Resident Of Village - Vikram Nadail, P.S. - Bakhari, District - Begusarai

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Braj Bhusan Poddar, Advocate
For the Opposite Party/s : Ms. Asha Devi, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 21-03-2024 Heard learned counsel for the petitioner and learned

A.P.P. for the State as well as learned counsel for the opposite

party no.2.

02. In the present case, the petitioner is apprehending

his arrest in connection with Complaint Case No. 1284C of

2020, in which cognizance has been taken under Section 498A

of the Indian Penal Code.

03. The petitioner is mother-in-law of the

complainant. But, from the avements made in the petition and

submission made on behalf the petitioner, I do not think there

should be any apprehension of arrest in the mind of the

petitioner since the Hon'ble Apex Court in the case of *Arnesh*



Kumar v. State of Bihar, reported in **(2014) 8 SCC 273 [Para-11]** and recently in the case of ***Mohd. Asfak Alam v. State of Jharkhand***, reported in **(2023) 8 SCC 632**, issued following directions in order to ensure that police officers do not arrest the accused unnecessarily and Magistrates do not authorize detention casually and mechanically:

“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;

11.2. All police officers be provided with a check list containing specified sub-clauses under Section 41(1)(b)(ii);

11.3. The police officer shall forward the check list duly filled and furnish the reasons and materials which necessitated the arrest, while forwarding/producing the accused before the Magistrate for further detention;

11.4. The Magistrate while authorising detention of the accused shall peruse the report furnished by the police officer in terms aforesaid and only after recording its satisfaction, the Magistrate will authorise detention;

11.5. The decision not to arrest an accused, be forwarded to the Magistrate within two weeks from the date of the institution of the case with a copy to the Magistrate which may be extended by the Superintendent of Police of the district for the reasons to be recorded in writing;

11.6. Notice of appearance in terms of Section 41-A CrPC be served on the accused within two weeks from the date of institution of the case, which may be extended by the Superintendent of Police of the district for the



reasons to be recorded in writing;

11.7. Failure to comply with the directions aforesaid shall apart from rendering the police officers concerned liable for departmental action, they shall also be liable to be punished for contempt of court to be instituted before the High Court having territorial jurisdiction.

11.8. Authorising detention without recording reasons as aforesaid by the Judicial Magistrate concerned shall be liable for departmental action by the appropriate High Court.

12. We hasten to add that directions aforesaid shall not only apply to the cases under Section 498-A IPC or Section 4 of the Dowry Prohibition Act, the cases in hand, but also such cases where offence is punishable with imprisonment for a terms which may be less than seven years or which may extend to seven years, whether with or without fine.”

04. A Coordinate Bench of this Court in the case of ***Naushad Ansari (Cr. Misc. No.3536 of 2024)*** directed the police and the learned Magistrate to completely adhere to the directions given by the Hon’ble Supreme Court in the case of ***Arnesh Kumar*** (supra) and ***Md. Asfak Alak*** (supra).

05. In the light of aforesaid directions of the Hon’ble Supreme Court in the cases of ***Arnesh Kumar & Mohd. Asfak Alam*** (supra) as well as decision of this Court in the case of ***Naushad Ansari (supra)***, this petition need not be entertained at this stage. The petitioner should not have any apprehension of arrest and the authorities are directed to adhere to the directions



given by the Hon’ble Supreme Court in the case of *Arnesh Kumar* (supra) and *Md. Asfak Alak* (supra).

06. Hence, the present petition stands disposed of in terms of the aforesaid directions of the Hon’ble Supreme Court as well as this Court.

(Arun Kumar Jha, J)

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