

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.8144 of 2025

Arising Out of PS. Case No.-9 Year-2023 Thana- MAHILA PS District- Darbhanga

Md. Shaukat son of Md. Isha Resident of Village- Padari, Tole Pirauna, Police Station -Ghanshyampur, District -Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kaushar Khatoon Daughter of Md. Boli @ Wali Resident of Village- Padari, Tole Pirauna, Police Station -Ghanshyampur, District -Darbhanga

... .. Opposite Party/s

with

CRIMINAL MISCELLANEOUS No. 87920 of 2024

Arising Out of PS. Case No.-9 Year-2023 Thana- MAHILA PS District- Darbhanga

1. MD. SHAKIL S/o Md. Isha R/o Village- Padari, Tole Pirauna, P.S.- Ghanshyampur, District- Darbhanga
2. Roshan Begam @ Raushan Begam W/o Md. Isha R/o Village- Padari, Tole Pirauna, P.S.- Ghanshyampur, District- Darbhanga
3. Md. Isha S/o Md. Bhola R/o Village- Padari, Tole Pirauna, P.S.- Ghanshyampur, District- Darbhanga

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Kaushar Khatoon D/o Md. Boli @ Wali R/o Village- Padari, Tole Pirauna, P.S.- Ghanshyampur, District- Darbhanga

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 8144 of 2025)

For the Petitioner/s : Mr.Nilendu Kumar Choudhary

For the Opposite Party/s : Mr.Satya Nand Shukla

(In CRIMINAL MISCELLANEOUS No. 87920 of 2024)

For the Petitioner/s : Mr.Nilendu Kumar Choudhary

For the Opposite Party/s : Mr.Md. Mushtaque Alam

Mr. Md. Ataul Haque

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

3 12-05-2025 Considering the fact that both the matters are arising



out of the same P.S. case and, as such, with the consent the parties, both the applications are being heard together and disposed of by this common order.

2. Heard Mr. Nilendu Kumar Choudhary, learned Advocate for the petitioners and learned Additional Public Prosecutors for the State. The informant is represented through Mr. Md. Ataul Haque, learned Advocate.

3. The petitioners apprehend their arrest in connection with Mahila P.S. Case No. 9 of 2023, registered for the offences punishable under Sections 376, 363, 313, 498(A), 323, 504, 506 and 34 of the Indian Penal Code, Sections 3/4 of the Dowry Prohibition Act and Sections 4/6 of the POCSO Act.

4. The petitioner in Cr. Misc. No. 8144 of 2025 happens to be husband of the informant, whereas petitioners in Cr. Misc. No. 87920 of 2024 are brother-in-law and the parents-in-law.

5. Based upon the written report, the prosecution alleges that the marriage of the informant was solemnised with Md. Shaukat (petitioner in Cr. Misc. No. 8144 of 2025) on 26.06.2020. At the time of marriage, sufficient dowry and cash were accorded to the accused persons. Despite this fact, the accused persons kept on demanding dowry and on account of



non-fulfilment of the same, she was tormented in various ways. There are further allegations of misbehave and forceful cohabitation against the petitioner (Md. Shaukat). Certain allegation has also been levelled against the in-laws persons of causing torture and assault and finally they ousted her from the matrimonial house.

6. Learned Advocate for the petitioners taking this Court through the FIR has contended with all vehemence that the police after investigation has not found the case true under any of the sections as alleged, except Section 498(A), 504 and 506 of the Indian Penal Code as well as Sections 3/4 of the Dowry Prohibition Act. The learned jurisdictional Court has also considering the aforesaid fact has taken cognizance for the offences noted hereinabove; hence the entire prosecution falls to the ground. All the more, the parties are none else but the close relatives and on account of some family feud as well as land dispute, the present FIR came to be lodged with a view to mount pressure and wreak vengeance. Apprehending the false implication in the present case, the petitioner no. 3 had also filed an informatory petition before the Additional Chief Judicial Magistrate, Biroul, Darbhanga on 22.12.2022, copy of which has also been placed on record as AnneuxreP/2 to the bail



application. The petitioners bear fair antecedent and they undertake that they will fully cooperate in the investigation and the proceeding of the court.

7. On the other hand, learned APPs. for the State and the learned Advocate for the informant vehemently oppose the bail application and submit that apart from the specific allegation of causing torture and misbehave, it is also the fact that against all the accused persons non bailable warrant has been issued, as is evident from the impugned order; moreover the learned court below after taking the mandate of the Apex Court in *Shrikant Upadhyay & Ors. Vs. State of Bihar & Anr (Special Leave Petition No. 7940 of 2023)* has been pleased to hold that the applicants are not entitled to invoke the extraordinary power in anticipatory bail.

8. Regard being had to the submissions made on behalf of the parties and considering the fact that the cognizance has been taken only for the offences under Sections 498(A), 504, 506 of the Indian Penal Code, apart from the law settled by the Apex Court in the case of *Asha Dubey Vs. The State of Madhya Pradesh in Cr. Appeal No. 4564 of 2024*, wherein the Court has held that in the event of the declaration under Section 82 of the Cr.P.C., it is not as if in all cases that there will be a



total embargo on considering the application for the grant of anticipatory bail, let the petitioners abovenamed be released on bail, in the event of their arrest or surrender before the court below within a period of four weeks from the date of receipt/production of a copy of this order, upon furnishing bail bonds of Rs.10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Sub Divisional Judicial Magistrate, Darbhanga in connection with Mahila P.S. Case No. 9 of 2023, subject to the conditions laid down in Section 482(2) of the Bharatiya Nagrik Suraksha Sanhita, 2023, with the further condition that one of the bailors shall be the own/close family members of the petitioners.

(Harish Kumar, J)

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