

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32752 of 2025

Arising Out of PS. Case No.-111 Year-2021 Thana- COMPLAINT CASE District- Lakhisarai

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Shailendra Mandal, S/o Ramanand Mandal, Resident of Village- Dhemomen Colony New Quarter Kharmbad, Ashansol, P.S.- Ashansol, District- Bardhaman (West Bengal).

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Priyanka Kumari, D/o Abhimanyu Mahato, W/o Shailendra Mandal, R/o Vill.- Mohaddinagar, P.S.- Halsi, Distt.- Lakhisarai.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Baxi S.R.P. Sinha, Sr. Adv. Mr. Mrigendra Pratap Singh, Adv.
For the O.P. No.	:	Mr. Om Prakash Maharaj, Adv.
For the State	:	Mr. Nitya Nand Tiwary, APP

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CORAM: HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

5 13-01-2026 In pursuance of this Court's order dated 12.12.2025, the petitioner as well as the opposite party No. 2 are physically present in *Chambers* with their respective lawyers.

2. A supplementary affidavit has been filed by the learned counsel for the petitioner in course of the day. Let the same be taken on record.



3. Heard Mr. Baxi S.R.P. Sinha, the learned Senior Advocate for the petitioner and Mr. Om Prakash Maharaj, the learned counsel for the opposite party No. 2. The State has been represented by Mr. Nitya Nand Tiwary, the learned Addl. Public Prosecutor.

4. The petitioner is apprehending his arrest in connection with Complaint Case No. 111C of 2021 registered for the offence(s) under Section(s) 498(A), 323, 341 and 379 of the Indian Penal Code and Section 3/4 of the Dowry Prohibition Act.

5. This Court had called upon the petitioner and opposite party no. 2 to verify as to whether they were eager to settle their differences and lead a conjugal life again. However, both the petitioner and opposite party no. 2 showed their unwillingness to reside together and they had their own stories against each other. Both the petitioner as well as O.P. No. 2 have alleged that the other side has solemnized second marriage and, hence, it is not possible for them to stay together again.

6. The present case was lodged by opposite party no. 2 alleging therein that her marriage was solemnized with the petitioner on 30.11.2019 and thereafter the petitioner started demanding a sum of one lakh rupees from the complainant as



dowry. It has been further alleged that the complainant became pregnant during the said period and was taken to her parental house, where she gave birth to a child. However, neither the petitioner nor his other family members came even to see the child despite having received information. From perusal of the FIR, it is evident that the offence alleged against the petitioner carries punishment of less than seven years.

7. Learned Additional Public Prosecutor for the State has submitted that the Hon'ble Supreme Court, in the case of **Arnesh Kumar v. State of Bihar, AIR 2014 SC 2756**, has laid down guidelines as to how the police and the learned Magistrate have to act in respect of offences which carry punishment up to seven years or less than seven years. The Hon'ble Supreme Court in **Arnesh Kumar** (supra) has held that before a Magistrate authorises detention under Section 167 Cr.P.C he has to be first satisfied that the arrest made is legal and in accordance with law and all the constitutional rights of the person arrested are satisfied.

8. It has been further submitted that the Hon'ble Supreme Court, in the case of **Md. Asfak Alam vs. the State of Jharkhand and another**, reported in **(2023) 8 SCC 632**, has directed all courts to strictly follow the law laid down in **Arnesh**



Kumar (supra) and has reiterated the directions in paragraph no. 16.1 contained therein as well as other directions which are as follows:-

16.1 “11. Our endeavour in this judgment is to ensure that police officers do not arrest the accused unnecessarily and Magistrates 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-AIPC is registered but to satisfy themselves about the necessity for arrest under the parameters laid down above flowing from Section 41CrPC;

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

11.3. The police officer shall



forward the checklist 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 the directions aforesaid shall not only apply to the cases under Section 498-A IPC or Sec. 4 of the Dowry Prohibition Act, the case in hand, but also such cases where offence is punishable with imprisonment for a term which may be less than seven years or which



may extend to seven years, whether with or without fine.”

16.2.(II) *The High Court shall frame the above directions in the form of notifications and guidelines to be followed by the Sessions Courts and all other and criminal courts dealing with various offences.*

16.3.(III) *Likewise, the Director General of Police in all States shall ensure that strict instructions in terms of the above directions are issued. Both the High Courts and the DGPs of all States shall ensure that such guidelines and Directives/Departmental Circulars are issued for guidance of all lower courts and police authorities in each State within eight weeks from today.*

16.4.(IV) *Affidavits of compliance shall be filed before this Court within ten weeks by all the States and High Courts, through their Registrars.*



9. Learned APP further points out that the Hon'ble Patna High Court, in compliance of the order passed in **Md. Ashfaq Alam** (supra), has issued Memo No. 62973 dated 19.09.2023, directing that all courts under the territorial jurisdiction of the Hon'ble Patna High Court shall be required to follow the law laid down in **Arnesh Kumar** (supra).

10. In view of the above, the petitioner is directed to make himself available before the police and he shall be extended the benefit of the directions as laid down in the case of **Arnesh Kumar** (supra) as well as in terms of Memo No. 62973 dated 19.09.2023 issued by the Hon'ble Patna High Court under the signature of the learned Registrar General.

11. With the aforesaid directions, the present anticipatory bail application is disposed of.

(Sourendra Pandey, J)

Praveen-II/-
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