# IN THE HIGH COURT OF JUDICATURE AT PATNA
## CRIMINAL MISCELLANEOUS No.35881 of 2026

**CNR No. BRHC010510292026**

Arising Out of PS. Case No.-2189 Year-2025 Thana- EAST CHAMPARAN COMPLAINT District- East Champaran

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Md. Shamshad Ali S/o Alauddin @ Alauddin Ansari @ Allawadding @ Allowding Ansari R/o Village - Allaula, P.S. - Kalyanpur, Distt. - East Champaran.

... ... Petitioner/s

Versus

1. The State of Bihar
2. Nagma Khatoon W/o Md Shamshad Ali R/o Village - Allaula, P.S. - Kalyanpur, Distt. - East Champaran. Presently R/o Village - Mohabbat Chhapra, P.S. - Mehsi, Dist. - East Champaran.

... ... Opposite Party/s

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**Appearance :**
For the Petitioner/s : Ms. Khushi Awadh, Adv.
For the Opposite Party/s : Ms. Veena Kumari Jaiswal, APP

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**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA**

ORAL ORDER

4 04-11-2026 1. Heard learned counsel for the petitioner, learned A.P.P. for the State, Mr. Chandra Bhushan Prasad and the learned counsel appearing on behalf of the O.P. No.2.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 126(2), 115(2), 85, 316(2), 88, 352 and 351(2) of the BNS, 2023.

3. The learned A.P.P. Mr. Chandra Bhushan Prasad, at the outset, submits that petitioner is seeking anticipatory bail in Complaint Case No. 2189 of 2025, in which cognizance has been taken under Sections 115(2), 85, 352 and 351(2) of the BNS, 2023. It is next submitted that after cognizance is taken, summons are issued and if petitioner based on summons appears

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before the learned Trial Court, the petitioner will not be arrested rather will join the proceedings before the learned Trial Court and for the said submission relies on an order of the Hon'ble Supreme Court in S.L.A. (Criminal) No. 16221 of 2025 (Om Prakash Chhawnika @ Om Prakash Chabnika @ Om Prakash Chawnika vs. the State of Jharkhand and another) disposed of by an order dated 23.04.2026 and relies on Paras-8, 9 and 10 of the said order.

4. The learned counsel appearing on behalf of the petitioner submits that the dispute is matrimonial and petitioner, being husband, has been falsely implicated in the instant case by the complainant. It is also submitted that the case was referred for mediation but then mediation failed, despite petitioner showing his willingness to keep the O.P. No. with honour and dignity but then O.P. No.2 was not ready to resume her conjugal relationship, the said submission of the learned counsel appearing on behalf of the petitioner is not denied by the learned counsel appearing on behalf of the O.P. No.2 that petitioner before the learned Mediator had accepted that he would keep the O.P. No. with honour and dignity but then it is submitted that the torture committed was such that O.P. No.2 did not intend to restitute her conjugal rights.

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5. On query of the Court from the learned counsel appearing on behalf of the petitioner that how she intends to countenance the submission made by the learned APP, the learned counsel appearing on behalf of the petitioner fairly submits that since summons have been issued, the petitioner ought to have appeared before the learned Trial Court and join the proceedings. The learned counsel appearing on behalf of the petitioner also submits that non-bailable warrant of arrest till date has not been issued against the petitioner.

6. Learned counsel next submits that in the State of Bihar, the learned Magistrates in mechanical manner on appearance remand the accused to judicial custody without appreciating the facts of the case and law in its correct perspective. It is further submitted that this Hon'ble Court, in some cases, have disposed of the anticipatory bail application with liberty to the petitioner to appear before the learned Trial Court on the ground that non-bailable warrant of arrest has not been issued and the learned Trial Court was directed to act strictly in accordance with the order of the Hon'ble Supreme Court as recorded hereinabove, but then in some of the cases, the learned Magistrate in mechanical manner remanded the accused in judicial custody, ignoring the order of the Hon'ble

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Supreme Court, on which the learned APP, Sri Chandra Bhushan Prasad, submits that if what is being submitted by the learned counsel appearing on behalf of the petitioner is a correct fact, in that event, consequences would follow, if the learned Magistrate is not adhering to the directions of the Hon'ble Supreme Court and this Court.

7. After hearing the learned counsel for the parties, the Court was inclined to extend the privilege of anticipatory bail to the petitioner, but since it has been submitted by the learned counsel appearing on behalf of the petitioner that till date non-bailable warrant of arrest against the petitioner has not been issued, hence the anticipatory bail application is disposed of with liberty to the petitioner to appear before the learned Trial Court on or before 03.12.2026 with a copy of the order dated 23.04.2026 in S.L.A. (Criminal) No. 16221 of 2025 (Om Prakash Chhawnika @ Om Prakash Chabnika @ Om Prakash Chawnika vs. the State of Jharkhand and another) and the learned Trial Court is directed to proceed strictly in accordance with the orders of the Hon'ble Supreme Court.

**(Satyavrat Verma, J)**

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