

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44548 of 2026

Arising Out of PS. Case No.-2865 Year-2024 Thana- SARAN COMPLAINT CASE District-
Saran

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Tuntun Mahto Son of Nanhak Mahto @ Nanak Mahto R/o - Mahamda, P.S -
Garkha, District - Saran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Jai Malal Kumari @ Jay Malala Kumari Wife of Tuntun Mahto Resident of
Village - Kanakpur, Ps- Dighwara, Dist- Saran

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Jha. Adv.
For the Opposite Party/s	:	Mr. Kumar Veerendra Narayan, APP
	:	Mr. Ramchandra Singh, Adv.

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 227-07-2026
1. Heard learned counsel for the petitioner, learned
A.P.P. for the State and the learned counsel appearing on behalf of
the informant.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 115(2),
118(1), 85, 64, 62 and 3(5) of the BNS and Section 3,4 of the
Dowry Prohibition Act.

3. The learned APP at the outset submits that from
perusal of the anticipatory bail application, it would manifest that
petitioner is seeking anticipatory bail in connection with
complaint case no. 2865 of 2024 in which cognizance has been
taken under Sections 85 and 78(2) of the BNS read with Sections
3, 4 of the Dowry Prohibition Act. It is next submitted that after
cognizance is taken, summons are issued and if petitioner based



on summons appear 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 SLA Criminal No. 16221 of 2025 (Om Prakash Chhawnika @ Om Prakash Chabnika @ Om Prakash Chawnika Vs. 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 dated 23.04.2026.

4. Learned counsel for the petitioner submits that petitioner being husband has been falsely implicated in the instant case and the dispute is matrimonial, but then the complainant falsely alleged that an attempt to commit rape was made by the elder brother of the petitioner, elder brother of the petitioner has been granted the privilege of anticipatory bail by the learned District Court and the case of the petitioner was rejected without appreciating the facts of the case in its correct perspective, but then is not in a position to rebut the submission made by the learned APP that since summons have been issued, the petitioner ought to have appeared before the learned Trial Court and joined the proceedings, but then fairly submits that after issuance of summons, bailable warrant of arrest has been issued on which the learned APP submits that when a bailable warrant of arrest is issued and the accused appears in that event the learned Trial



Court will release him on bail. It is next submitted that the order of the Hon'ble Supreme Court is clear that in complaint cases where summons are issued, at that stage there is no role of the police. It is further submitted that since only bailable warrant of arrest has been issued, as such, the petitioner should go and appear before the learned Trial Court for joining the proceedings.

5. Learned counsel appearing on behalf of the complainant also does not dispute the said submission of the learned APP.

6. After hearing the learned counsel for the parties, the anticipatory bail application is disposed of with a liberty to the petitioner to appear before the learned Trial Court on or before, 12.08.2026 with a copy of the order dated 23.04.2026 in SLA (Criminal) No. 16221 of 2025 (Om Prakash Chhawnika @ Om Prakash Chabnika @ Om Prakash Chawnika Vs. State of Jharkhand and another) and the learned Trial Court shall proceed strictly in accordance with law.

(Satyavrat Verma, J)

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