

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50943 of 2025

Arising Out of PS. Case No.-856 Year-2021 Thana- PATNA COMPLAINT CASE District-
Patna

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Shams Tabrez, Male, Aged about 39 years, S/o Nehal Khan, R/o- Jamshedpur
Jugsalaye Gauri Shankar Road, Pahalvan Road, District - East Singhbhum,
Jharkhand

... .. Petitioner/s

Versus

1. The State of Bihar
2. Nilofar Khanam D/o - Akhtar Khan R/o - C- 36 Indrapuri, Samanpura, Raza
Bazar, District - Patna 800014

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Vishal Vikram Rana, Advocate
For the O.P. No. 2	:	Mr. Md. Abu Shajar, Advocate
For the State	:	Mr. Satyendra Narayan Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

4 17-01-2026 Heard Mr. Vishal Vikram Rana, learned counsel

appearing on behalf of the petitioner; Mr. Md. Abu Shajar,

learned counsel for the complainant and Mr. Satyendra Narayan

Singh, learned APP appearing on behalf of the State.

2. The petitioner seeks pre-arrest bail in connection
with Complaint Case No. 856 of 2021 registered for the
offence(s) punishable under Sections 498(A) of the Indian Penal
Code and Sections 3/4 of the D.P. Act.

3. As per the allegation made in the FIR, the marriage
of the complainant was solemnized with the petitioner on
11.05.2012. After one month of marriage, behaviour of the



petitioner and his family members changed towards petitioner and they had started torturing the complainant to bring rupee fifty lakh from her parents to buy a new flat and due to non-fulfillment of the same, they had ousted the complainant from her matrimonial house.

4. Learned counsel appearing on behalf of the petitioner submitted that petitioner is innocent and has falsely been implicated in the present case. He further submitted that petitioner always tries to lead a peaceful married life with the informant but she never co-operates with him on the instigation of her family members. Learned counsel further submitted that marriage is a sacred ceremony but little matrimonial skirmish suddenly erupts into hatred and the parties ponder to reconcile their dispute outside the court.

5. Learned counsel appearing on behalf of the informant opposing the prayer for grant of pre-arrest bail submitted that an opportunity may be given to the parties to resolve their dispute amicably outside the Court.

6. Learned APP appearing on behalf of the State submitted that a chance be given to the parties for amicable settlement outside the court.

7. However, at this stage, learned counsel for the



respective parties, on instruction, submitted that the parties have agreed to appear before the learned District Court at 10:30 A.M. on 19.02.2026 for resolving the dispute by way of mediation.

8. Heard the parties.

9. The matrimonial dispute is not an offense against the society rather a matrimonial dispute is a private conflict between spouses and does not inherently constitute an offence against society. However, a false case can have a disastrous consequence in absence of any criminal content. The personal dispute cannot call for a criminal offence. In such situation, continuation of the proceeding would amount to abuse of process of law leading to vexatious proceeding against the petitioner.

10. In this regard, the Apex Court in the case of **B.S. Joshi v. State of Haryana**, reported in, **(2003) 4 SCC 675**, in paragraph nos. 12 and 13 has held as under:-

“12. The special features in such matrimonial matters are evident. It becomes the duty of the court to encourage genuine settlements of matrimonial disputes.

13. The observations made by this Court, though in a slightly different context, in G.V. Rao v. L.H.V. Prasad [(2000) 3 SCC 693 : 2000 SCC (Cri) 733] are very apt for determining the approach required to be kept in view in a matrimonial dispute by the courts. It was said that there has been an outburst of matrimonial disputes in recent times. Marriage is a sacred ceremony, the main purpose of which is to enable the young couple to settle down in life and live peacefully. But little matrimonial skirmishes suddenly erupt which often assume serious proportions resulting in commission of heinous crimes in which elders of the family are also involved with the result that those who could have counselled and brought



about rapprochement are rendered helpless on their being arrayed as accused in the criminal case. There are many other reasons which need not be mentioned here for not encouraging matrimonial litigation so that the parties may ponder over their defaults and terminate their disputes amicably by mutual agreement instead of fighting it out in a court of law where it takes years and years to conclude and in that process the parties lose their "young" days in chasing their "cases" in different courts."

11. The parties have willingly desired to appear before the learned District Court on 19.02.2026, so that the matter can be referred to the District Mediation Centre.

12. Learned District Court is directed to take necessary steps to refer the matter before the learned Mediator of the District Mediation Center by fixing a date for appearance of the parties.

13. Learned Mediator of the District Mediation Center concerned upon appearance of the parties on the fixed date shall make his/her best efforts to settle the dispute amicably and thereafter submit his/her report before the concerned learned District Court, well within a period of four months, till then, no coercive action shall be taken against the petitioner in connection with the aforesaid case.

14. In case, the parties resolve their dispute amicably or arrive at a mutual settlement, in light of the law laid down by the Apex Court, the petitioner is required to be released on pre-arrest bail on such terms and conditions as the learned District



Court deems it fit and proper.

15. In case of failure on the part of the petitioner to appear on 19.02.2026 before the learned District Court or any date fixed by the learned Mediator, the interim protection granted to the petitioner shall automatically lose its force.

16. In case, it is deliberate on the part of the opposite party no.2 to reconcile, then in that case, the interim protection granted to the petitioner shall continue and the trial shall proceed in accordance with law.

17. In case, the parties fail to reconcile, then in that case, parties may avail appropriate remedy. Then also, petitioner is directed to be released on pre-arrest bail on such terms and conditions as the learned District Court deems it fit and proper.

18. With aforesaid direction and observation, the present application stands disposed of.

(Purnendu Singh, J)

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