

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1866 of 2025

Arising Out of PS. Case No.-411 Year-2022 Thana- AURANGABAD COMPLAINT CASE
District- Aurangabad

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Furqan Alam S/o Zahiruddin Ansari Resident of Ward No. 3, Baradari Mohalla, Purani Sahar Daudnagar, P.S.- Daud Nagar, District- Aurangabad. Presently posted in the office of Commendant 104, Brn. BSF Khasiamangal, Taliamura (Tripurra)

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police (DGP), Bihar, Patna Bihar
2. Smt. Saima Arfa @ Saima Aasfa W/o Furqan Ahmad, D/o- Md. Isheteyaq Ahmad Resident of Ward No. 3, Baradari Mohalla- Purani, Shahar Daudnagar, P.S.- Daudnagar, District- Aurangabad. At present R/o Village- Balapokhar, P.S.- Deo, District- Aurangabad

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rampravesh Nath Tiwari, Adv.
For the State	:	G.P. 11
For the Respondent no.2	:	Mr. Santosh Kr. Pandey, Adv.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

3 29-01-2026 The present writ petition has been filed by the

petitioner seeking following reliefs:-

“(i) For issuance of appropriate writ/ writs in the nature of writ of certiorari for quashing of entire criminal proceedings pending against the petitioner in connection with complaint case No. 411/2022, Tr. No. 352/22 (Saima Arfa Vs. Furqan Alam), pending before the court of Sri Shad Razaque Learned J.M. Ist Class, Aurangabad, Registered U/S-379, 323, 498A for the reason that the prosecution against the



petitioner is totally false and malicious and the same has initiated by respondent No.2 to pressurize the petitioner to ensure compliance of her unreasonable demands.

(ii) For issuance of direction/ direction of Court concern i.e. the Court of J.M. 1st Class, Aurangabad to stay the proceedings of complaint case No. 411/2022, Tr. No. 352/2022 against the petitioner during pendency of the instant writ application.

(iii) For issuance of any other relief / reliefs for which the petitioner is entitled to on the facts and circumstances of the case.”

02. Learned counsel appearing on behalf of the respondent no. 2 submits that pursuant to Complaint Case No. 411 of 2022, Tr. No. 352/22 pending before the learned JMFC, Aurangabad registered for the offences under Sections 379, 323, 498A of the IPC, evidence of the parties have been recorded and the matter is fixed for arguments. Therefore, the present writ petition is not maintainable.

03. I find weight in the submission of the learned counsel for the respondent no. 2. Hon'ble Supreme Court in the case of ***Neeta Singh and Ors. Vs. State of U.P. & Ors., Special Leave to Appeal (Crl.) No(s). 13578/2024*** has held that the judicial orders of the civil court are not amenable to writ jurisdiction under Article 226 of the Constitution and that jurisdiction under Article 227 is distinct from jurisdiction under



Article 226. It further held that challenge to judicial orders could lie by way of an appeal or a revision or under Article 227 of the Constitution and not by way of a writ under Articles 226 and 32. Further, Hon'ble Supreme Court in paragraph 15 has held as under:-

“15. In view of the decision in Prakash Chand (supra), we hold that nomenclature of a petition read with the substance thereof does matter. Much depends on what the subject matter of the petition is and who is entrusted to hear and decide it. A Judge of a high court having been assigned petitions under Article 226 for hearing and decision by its Chief Justice cannot, if he (the Judge) finds that the petition filed under Article 226 should have ideally been filed under Article 227, treat the petition as one under Article 227 and proceed to hear and decide it, unless the Chief Justice has also assigned to such Judge petitions under Article 227 of the Constitution for hearing and decision. If not so assigned, the learned Judge may, in his discretion, direct the petition to be treated as one under Article 227 for being placed before the learned Judge having assignment. This is mandatory and, therefore, one finds the caution sounded by this Court in the opening sentence of paragraph 26 of Pepsi Foods (supra) to be of extreme significance.”

In the light of decision of the Supreme Court, it is clear that a writ petition is not maintainable against judicial orders. Moreover if cognizance have been taken, the writ petition does not remain entertainable.

04. Today the learned counsel for the petitioner



submits that the matter has a chance of settlement and the matter may be referred to the mediation centre for bringing out a settlement between the parties.

05. It has also been pointed out that the petitioner has earlier approached this Court in Cr. Misc. No. 59658 of 2022 wherein submission was made that the parties have settled the dispute between them through the process of mediation and have been staying together and thereafter pre-arrest bail was granted to the petitioner. However the petitioner did not abide by the settlement as is claimed by the learned counsel appearing on behalf of the respondent no. 2. Further in Cr. Rev. No. 523 of 2024 vide order dated 23.04.2025 the matter was again referred for mediation and admittedly the said mediation has again failed.

06. I consider the submission made on behalf of the petitioner to be only a tactics for buying time. When mediation has twice failed between the parties, which has been initiated at the instance of the learned Co-ordinate Benches and the matter has reached the stage of disposal before the learned trial court, no useful purpose will be served in again sending the case for mediation. If the petitioner is aggrieved by the proceeding before the learned trial court, the course open to the petitioner is



to approach the appropriate forum in appropriate proceeding but in no case in a writ proceeding under Article 226 of the Constitution of India.

07. Therefore, I do not find the present writ petition fit to be maintainable and hence the same is dismissed.

(Arun Kumar Jha, J)

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