IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76573 of 2026

CNR No. BRHC011067092026

Arising Out of PS. Case No.-300 Year-2025 Thana- SITAMARHI COMPLAINT CASE District- Sitamarhi

==========

Gunjan Prabha D/o Prabhakar Sharan, Wife of Nishant Kumar Resident of Village - New Agarwa, P.O. and P.S.- Motihari, District- East Champaran

... ... Petitioner/s

Versus

1. The State of Bihar
2. Nishant Kumar Son of Vidyapati Sinha Resident of Village - Mirchaipatti, Ward No.10, P.S.- Sitamarhi, District- Sitamarhi

... ... Opposite Party/s

==========

Appearance :
For the Petitioner/s : Mr. Prateek Tandon
For the Opposite Party/s : Mr. Abhay Kumar Roy

==========

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

2 05-11-2026 1. Heard learned counsel for the petitioner and learned A.P.P. for the State, Mr. Abhay Kumar Roy.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 316(2), 338, 351(2), 352 and 3(5) of the BNS.

3. The learned A.P.P., Mr. Abhay Kumar Roy, at the outset, submits that petitioner is seeking anticipatory bail in Complaint Case No. 300 of 2025, in which cognizance has been taken under Sections 316(2), 338, 351(2), 352 and 3(5) of the BNS. It is next submitted that after cognizance is taken, summons are issued and if petitioner based on summons appears

WEB COPY

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 wife, has been falsely implicated in the instant case by the complainant, but then is not in a position to rebut the submissions made by learned APP that since summons have been issued, the petitioner ought to have appeared before the learned Trial Court and joined the proceedings. The learned counsel appearing on behalf of the petitioner also fairly submits that till date non-bailable warrant of arrest has not been issued against the petitioner.

5. The learned counsel appearing on behalf of the petitioner 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

WEB COPY

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 in complete breach of the orders of the Hon'ble Supreme Court and this Court, on which the learned APP, Mr. Abhay Kumar Roy, 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 direction of the Hon'ble Supreme Court and this Court.

6. 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

WEB COPY

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)

vikram/-

U		T	

WEB COPY