IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74955 of 2026

CNR No. BRHC011069622026

Arising Out of PS. Case No.-818 Year-2025 Thana- MADHUBANI COMPLAINT CASE District- Madhubani

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Kaushal Kumar S/o Late Ambika Prasad Chaudhary R/o Village - Durgipatti, P.S. - Khutauna, District - Madhubani.

... ... Petitioner/s

Versus

1. The State of Bihar
2. Nitu Kumari W/o Kaushal Kumar R/o Village - Durgipatti, P.S. - Khutauna, District - Madhubani.

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Gagan Deo Yadav, Adv.
	:	Mr. Rohit Kant Singh, Adv.
For the Opposite Party/s	:	Mr. Chandra Bhushan Prasad, APP
	:	Mr. Sanjay Kumar Jha, Adv.
	:	Mr. Ashish Kumar Palti, Adv.

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

2 25-11-2026 1. Heard learned counsel for the petitioner, learned A.P.P. for the State and the learned counsel appearing on behalf of the complainant.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 115(2), 352, 303(2), 85 and 3(5) of the Bharatiya Nyaya Sanhita and Section 3/4 of the Dowry Prohibition Act.

3. Learned counsel for the petitioner submits that the learned Additional Sessions Judge-IV, Madhubani rejected the anticipatory bail application of the petitioner by the order

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impugned holding that anticipatory bail is not maintainable since no warrant of arrest has been issued and only cognizance has been taken based on the complaint case instituted by the complainant.

4. Learned A.P.P. for the State, Mr. Chandra Bhushan Prasad Submits that the order impugned cannot be faulted, on which the learned counsel appearing on behalf of the petitioner submits that no doubt anticipatory bail application in such a case is not maintainable but in the State of Bihar once an accused appears, the learned Magistrate in mechanical manner remands without appreciating the law in its correct perspective.

5. At this stage, the learned APP, Mr. Chandra Bhushan Prasad submits that the petitioner is seeking anticipatory bail in Cr. Case No. 818 of 2025 in which cognizance has been taken under Sections 115(2), 85, 3(5) of the BNS read with Section 3 and 4 of the Dowry Prohibition Act. It is next submitted that once 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

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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 para 8, 9 and 10 of the order dated 23.04.2026.

6. The learned counsel appearing on behalf of the petitioner submits that petitioner being husband has been falsely implicated in the instant case by the complainant and the dispute is matrimonial, but then is not in a position rebut the submissions 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.

7. At this stage, the learned counsel appearing on behalf of the petitioner reiterates and submits that in the State of Bihar, the learned Magistrate 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, had 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

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Court as recorded hereinabove but in some cases, the learned Magistrate in mechanical manner remanded the accused to judicial custody, on which the learned APP, Mr. 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 will follow, if the learned Magistrate is not adhering to the direction of the Hon'ble Supreme Court and this Court.

8. The learned counsel appearing on behalf of the OP No. 2 is not in a position to rebut the submissions made by the learned counsel appearing on behalf of the petitioner.

9. At this stage, thee learned counsel appearing on behalf of the petitioner submits that from perusal of the order impugned, it would manifest that the same records that warrant of arrest has not been issued against the petitioner.

10. After hearing the learned counsel for the parties, the petitioner is directed to appear before the learned Trial Court on or before 11.12.2026 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 is directed to proceed strictly in accordance with the

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order of the Hon’ble Supreme Court.

(Satyavrat Verma, J)

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