

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.73159 of 2025**

Arising Out of PS. Case No.-23 Year-2023 Thana- COMPLAINT CASE - BENIPUR  
District- Darbhanga

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1. Poornima Devi W/O Bachhu Mukhiya Resident of Village- Bhith Bhagwanpur (Malwa Tole), Police Station- Madhepura, District- Madhubani.
  2. Bachhu Mukhiya S/O Rooplal Mukhiya Resident of Village- Bhith Bhagwanpur (Malwa Tole), Police Station- Madhepura, District- Madhubani.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Arti Kumari W/O Pradeep Kumar R/O Village- Bhith Bhagwanpur (Malwa Tole), P.S- Madhepur, Distt.- Madhubani, Daughter of Sri Ganga Sahni, R/O Village- Harsingpur (Navtoliya Panchayat), P.S- Bahera, Distt.- Darbhanga.

... .. Opposite Party/s

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**Appearance :**

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| For the Petitioner/s | : | Mr.Kaushal Kumar Jha. Advocate |
| For the State        | : | Mr.Tarkeshwar Nath Thakur, APP |

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**CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR**  
**ORAL ORDER**

3      21-01-2026                      Heard learned counsel for the petitioners and learned  
A.P.P. for the State.

2. The petitioners apprehend arrest in connection  
with Complaint Case No. 23 of 2023 instituted under Section  
498(A) of the Indian Penal Code and Section 4 of the D.P. Act.

3. The petitioners are in-laws of the complainant.

4. The following order was passed vide order dated  
03.11.2025 passed in Cr. Misc. No. 74701 of 2025, which reads  
as follows:

*“Heard learned counsel for the*



*petitioner learned Additional Public Prosecutor for the State.*

*2. The petitioner is apprehending his arrest in connection with Complaint Case No. 23/2023 registered for the offence punishable u/ss 498A, 341, 323, 379 of the Indian Penal Code and section 3/4 of the DP Act.*

*3. As per the prosecution case, the petitioner and the co-accused persons are alleged to have tortured the informant mentally and physically due to non-fulfillment of demand of dowry and ousted her from the matrimonial home.*

*4. Learned counsel for the petitioner has submitted that the petitioner is innocent and has falsely been implicated in this case. There is general and omnibus allegation against the petitioner. It is further submitted that the petitioner has never married the informant and he has no concern with the alleged offence. The petitioner has no criminal antecedent as stated in para 3 of the bail petition.*

*5. Learned A.P.P. for the State and learned counsel for the informant have vehemently opposed the prayer for anticipatory bail of the petitioner. Learned counsel has further submitted that the instant anticipatory bail application is not maintainable and from the lower court record that vide order dated 27.05.2025, as the process u/s 82 of the Cr.P.C. has already been issued against the petitioner. The petitioner is declared a proclaimed offender. Learned counsel has further relied upon the case of (**Abhishek vs. State of Maharashtra (2022) 14 SCC 529**) where it was held that "As regards the implication of proclamation having been issued against the appellant, we have no hesitation in making it clear that any person, who is declared as an 'absconder' and remains out of reach of the investigating agency and thereby stands directly at conflict with law, ordinarily, deserves no concession or indulgence." Reliance has further been placed on the decisions of (**Lavesh vs. State (NCT of***



*DelhiI) (2012) 8 SCC 730, Adri Dharan Das vs. State of W.B. (2005) 4 SCC 303) and (Prem Shankar Prasad vs. State of Bihar 2021 SCC Online SCC 955) and in the case of (State of Haryana vs. Dharamraj (Cr. Appeal No. 2635 of 2023 @ out of SLP (Cri.) No. 2256 of 2022, reported in 2023 LiveLaw (SC) 739: 2023 INSC 784) disposed of 29.08.2023 wherein the Hon'ble Apex Court has held that: "Anticipatory bail can be granted to a person to a proclaimed offender only in exceptional and rare case." It is further submitted that the materials available on the record do not reveal any exceptional or rare case due to which the plea of anticipatory bail may be considered. Learned counsel has further relied upon the case of **Srikant Upadhyay & Ors. Vs. State of Bihar & Anr. reported in 2024 INSC 202**, the Hon'ble Supreme Court vide para-24 of the said judgment has been pleased to hold that "at any rate, when warrant of arrest or proclamation is issued, the applicant is not entitled to invoke the extraordinary power".*

*6. Considering the aforesaid facts and circumstances of the case as well as the petitioner having been declared a proclaimed offender, the anticipatory bail petition is not maintainable. Accordingly, the same is disposed of with direction to the petitioner to surrender before the Court below concerned within six weeks from the date of this order and the prayer for regular bail and the learned Court below may consider his prayer for regular bail in accordance with law without being prejudiced by this order.*

*7. The application stands disposed of."*

5. This application is disposed of with liberty to the petitioners to surrender before the concerned Court below within six weeks from the date of communication of this order



and pray for regular bail in the Court below and the Court below may consider his prayer for regular bail in accordance with law or the petitioners may file an application under Section 205 of the Cr.P.C./ 228 of the BNSS and if such an application is filed, the same shall be considered in accordance with law.

**(Sandeep Kumar, J)**

P. Kumar

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