IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76434 of 2026

CNR No. BRHC011106582026

Arising Out of PS. Case No.-2028 Year-2023 Thana- SIWAN COMPLAINT CASE District-Siwan

==========

Aslam Hussain Son of Noor Hussain Resident of Village- Padrawna, P.S.- Barharia, District- Siwan. At present Resident of Village/ At- Chapar Town, P.S.- Chapar, District- Gubri (Assam)

... ... Petitioner/s

Versus

1. The State of Bihar
2. Afsana Khatoon Wife of Aslam Hussain, D/o Munna Hazam Resident of Village- Daroga Hata, P.S.- Siwan Muffasil (Mahadevca O.P.), District-Siwan

... ... Opposite Party/s

==========

Appearance :
For the Petitioner/s : Mr. Javed Aslam, Adv.
For the Opposite Party/s : Mr. Chandra Bhushan Prasad, APP

==========

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA

ORAL ORDER

2 25-11-2026 1. Heard learned counsel for the petitioner and learned A.P.P. for the State, Mr. Chandra Bhushan Prasad.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 498(A) and 323 of the IPC.

3. The learned APP, Mr. Chandra Bhushan Prasad at the outset submits that the petitioner is seeking anticipatory bail in Complaint Case No. 2028 of 2023 in which cognizance has been taken under Section 498(A) and 323 of the IPC. It is next submitted that once cognizance is taken, summons are issued

WEB COPY

and if petitioner based on summons appears 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 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.

4. The learned counsel appearing on behalf of the petitioner submits that petitioner being husband has been falsely implicated in the instant case 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.

5. The learned counsel appearing on behalf of the petitioner 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 case and law in its correct perspective. It is further submitted that this Hon'ble Court in some cases have disposed of

WEB COPY

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

6. At this stage, the learned counsel appearing on behalf of the petitioner submits that non-bailable warrant of arrest against the petitioner till date has not been issued.

7. After hearing the learned counsel for the parties, the court was inclined to extend the privilege of the anticipatory bail application 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 with liberty to the petitioner to appear before the

WEB COPY

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 order of the Hon'ble Supreme Court.

(Satyavrat Verma, J)

rajesh/-

U		T	

WEB COPY