

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1061 of 2021

Arising Out of PS. Case No.-68 Year-2021 Thana- BAHADURPUR District- Darbhanga

ABHISHEK KUMAR SINGH Son of Ram Pravesh Singh Resident of Village - Madhurapur, Dilawra Gobardhan, Police Station - Bidupur, District - Vaishali. Present address C/O R. Prasad Gupta, Bakarganj, Police Station - Gandhi Maidan, District – Patna. Petitioner

Versus

1. The State of Bihar through the Home Secretary, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Inspector General of Police, Darbhanga Range, Darbhanga.
4. The Superintendent of Police, Darbhanga.
5. The Deputy Superintendent of Police, Sadar, Darbhanga.
6. The police Inspector- Cum- Officer- In- Charge, Bahadurpur Police Station, Darbhanga.
7. The investigating Officer of Bahadurpur, Police Case No. 68 of 2021, Darbhanga.

... .. Respondents

Appearance :

For the Petitioner/s : Mr.Rana Ishwar Chandra,Advocate
For the Respondent/s : Mr.Saroj Kumar Sharma,AC to AAG-3

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 25-10-2021 Learned counsel for the petitioner undertakes to remove all the defects pointed out by the Stamp Reporter within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and Mr. Saroj Kumar Sharma, learned AC to AAG-3.

This writ application has been filed with a prayer to direct the Superintendent of Police, Darbhanga (respondent no. 4) and the Investigating Officer (respondent no. 7) of Bahadurpur P.S. Case no. 68 of 2021 to submit a chargesheet in the matter.

Learned counsel for the petitioner submits that he is



looking for release of the vehicle which has allegedly met an accident in respect of which Bahadurpur P.S. Case No. 68 of 2021 has been registered on 04.02.2021. It is his submission that as a matter of practice in the learned court below unless a chargesheet is filed, the court below is not considering the application for release of the vehicle and as such, the petitioner has been advised to move this Court in its writ jurisdiction.

On the query made by this court, learned counsel for the petitioner is unable to show that any application seeking release of the vehicle in question has been filed in the learned court below in terms of the provisions contained in the Code of Criminal Procedure.

Learned counsel does not dispute that the provisions of Cr.P.C. are applicable in this case and a regular court constituted under the Cr.P.C. is competent to deal with an application seeking release of the vehicle.

This Court has heard learned counsel for the petitioner and learned AC to AAG-3 as also perused the writ application. In the writ application, there is no averment that at any point of time the petitioner has applied for release of the vehicle in question in the learned court below.

The submission of learned counsel for the petitioner that the court below is not entertaining an application for release of vehicle unless and until a chargesheet is filed in the case does not inspire confidence of this Court in absence of any such provision in the Cr.P.C. This Court is unable to appreciate as to why an



application if filed by the petitioner in the learned court below shall not be considered.

This Court sitting in its extraordinary writ jurisdiction under Article 226 of the Constitution of India would not take upon itself the jurisdiction of the regular courts constituted under the Code of Criminal Procedure and in the facts of the present case where no application at all has been filed by the petitioner in the learned court below seeking release of the vehicle, this Court declines to exercise its discretionary jurisdiction under Article 226 of the Constitution of India.

This writ application is, thus, not entertained and is being disposed of with liberty to the petitioner to file an appropriate application, if so advised, in the learned court below for release of the vehicle in question. If such an application is filed, the learned court below shall consider the same as early as possible and the same shall be disposed of within a reasonable period in accordance with law.

This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

SUSHMA2/-

U		T	
---	--	---	--

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

