

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.618 of 2022

Arising Out of PS. Case No.-233 Year-2021 Thana- DEHRI TOWN District- Rohtas

PAWAN KUMAR @ PAWAN KUMAR JHUNJHUNWALA Son of Girdhari
Lal Resident of Village - Barahapathar, P.s.- Dehri on Sone, Distt.- Rohtas
... Petitioner

Versus

1. The State of Bihar through Principle Secretary, Home Deptt. Govt. of Bihar, Patna
 2. The Director General of Police, Govt. of Bihar, Patna
 3. The Inspector of General (Sahabad Range) Dehari on sone
 4. The Superintendent of Police, Rohtas (Sasaram)
 5. The Sub Divisional Police Officer, Dehari on sone, Distt. Rohtas
 6. The Station House officer, Dehari Town Police Station , Distt. Rohtas
- ... Respondents

Appearance :

For the Petitioner	:	Mr.Shivendra Kumar Sinha, Adv.
For the Respondents	:	Mr.Sanjay Kumar Ghoswal, AC to AAG III

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 28-04-2023 Heard learned counsel for the petitioner and learned
counsel for the State.

In the present application the petitioner seeks for quashing of Dehari Town P.S. Case No. 233 of 2021, 26.04.2021, registered under Sections 420, 419, 467, 468, 471 and 120(B) of the Indian Penal Code, 3 and 4 of the Bihar Ban on Lottery Act, 1993, and Section 11 of Bihar Bengal Gambling Act, 1867.

Learned counsel for the petitioner fairly submits that as per allegation, the investigation requires to continue but the base allegation is relating to Sections 3 and 4 of Bihar Ban on



Lottery Act, 1993, and Section 11 of Bihar Bengal Gambling Act, 1867. He further submits that since the Bihar Ban on Lottery Act, 1993 has already been repealed by the Hon'ble Division Bench of this Court in the case of **M/s Iqbal Chand Khurna and others Vs. State of Bihar and others** reported in **1994 (1) PLJR 554** and considering that judgment one criminal writ bearing **Criminal Writ No. 401 of 2013 (Ramashray Yadav and others Vs. State of Bihar)** has also been decided. Learned counsel also submits that this case has been filed on the basis of a law which has already been declared as ultra vires to the Constitution of India because so far as the lotteries organized by the Central Government or any other State Government is concerned, it lacks legislative competency to that extent.

In this view of the matter, petitioner is directed to file representation before the Superintendent of Police, Rohtas (Sasaram) (respondent no. 4) in the light of order passed in the case of **Surendra Singh Vs. State of Bihar and others** on 09.09.2022 in **Cr. W.J.C. No. 153 of 2017** with analogous cases within four weeks from the date of passing of this order. The Superintendent of Police, Rohtas (Sasaram) (respondent no. 4) is directed to take appropriate decision in the



light of order passed in the case of **Surendra Singh Vs. State of Bihar and others** on 09.09.2022 in **Cr. W.J.C. No. 153 of 2017** with analogous cases within six weeks from the date of receiving of representation of petitioner.

Till submission of final report under Section 173 (2) of the Criminal Procedure Code, 1973, no coercive step shall be taken against the petitioner in connection with Dehari Town P.S. Case No. 233 of 2021.

With the aforesaid direction, the present Cr. Writ Petition is hereby **disposed off**.

(Dr. Anshuman, J)

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