

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1003 of 2024

Arising Out of PS. Case No.-531 Year-2023 Thana- BARBIGHA District- Sheikhpura

Pratap Biswas Son of Late Nagendra Biswas Resident of Village - Islampur, Nahata, Police Station - Gopal Nagar, District - 24, Pragana, West Bengal, at present posted as Area Manager, Ashirbad, Micro Finance Ltd. at Barbigha, Police Station - Barbigha, District - Sheikhpura, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Principal Secretary, Department of Home, Government of Bihar. Bihar
2. The Director General of Police, Bihar, Patna Bihar
3. The Inspector General of Police, Munger. Bihar
4. The Superintendent of Police, Sheikhpura. Bihar
5. The District Magistrate-cum-Collector, Sheikhpura. Bihar
6. The S.H.O., Barbigha Police Station, District - Sheikhpura. Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Bipin Kumar
For the Respondent/s : Mr.G.P 22

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

2 27-06-2024 Heard the parties.

2. This application has been filed on behalf of the petitioner for quashing the order dated 15.02.2024 passed by learned Chief Judicial Magistrate, Sheikhpura in connection with Barbigha P.S. Case No. 531 of 2023 by which the petitioner has been directed to produce the seized gold in the Court below as and when asked to do so.

3. It has been submitted by the learned counsel for the petitioner that the gold belongs to the various customers of the Micro Finance Company who had placed their gold and had taken loan and once they to take back their gold after repayment of the loan amount with interest, the petitioner has to release the gold. This condition is onerous and the same should not have



been imposed upon the petitioner in view of the law laid down by the Hon'ble Supreme Court in the case of *Sunderbhai Ambalal Desai Vs. State of Gujarat reported in 2002 (10) SCC 283*.

4. The learned State counsel has no objection to the prayer of the petitioner in view of the aforesaid judgment of the Hon'ble Supreme Court.

5. In view of the above, this application is allowed.

6. The last part of the order dated 15.02.2024 by which the petitioner has been directed to give an undertaking to produce the seized gold as and when required by the Court is hereby set aside.

7. The other conditions imposed by the Court below shall remain the same.

8. The petitioner shall be free to release the gold in favour of its customers.

(Sandeep Kumar, J)

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