

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.419 of 2025

Arising Out of PS. Case No.- Year-0 Thana- District- Sitamarhi

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Adul Hossain Son of Nazrul Haque Resident of Village Paharganj,
Gossanimari, P.S. Dinhata, Distt. Cooch Behar, West Bengal, Pin Code-
736145, Presently Working At Shakti Marka, Brick Killan of Rabindra Sain
Situating At Village Tarmamesol, P.S. Runnisaidpur, Distt.- Sitamarhi (Bihar).

... .. Petitioner

Versus

1. The Union of India through its Deputy Secretary Ministry of Labour And Employment, Jaisalmer House 26 Man Singh Road, New Delhi-110011
2. The State of Bihar Through Its Chief Secretary, Government of Bihar, Patna Bihar
3. The Collector And District Magistrate, Sitamarhi, Distt.- Sitamarhi Bihar
4. The Senior Superintendent Of Police, Sitamarhi Bihar
5. The Labour Commissioner, Government of Bihar, Labour Resource Department, Govt. of Bihar Niyojan Bhawan, Bailey Road, Patna
6. The Station House Officer (S.H.O.), Runnisaidpur Police Station, Distt.- Sitamarhi Bihar
7. Rabindra Sain Owner of Shakti Marka Brick Kiln, Resident of Village-Tarmamesol, P.O. And P.S.- Runissaidpur, Distt.- Sitamarhi
8. Sanjib Munshi of Shakti Marka Brick Kiln, Resident of Village-Tarmamesol, P.O. And P.S.- Runissaidpur, Distt.- Sitamarhi
9. Anarul Choukidar of Shakti Marka Brick Kiln, Resident of Village-Tarmamesol, P.O. And P.S.- Runissaidpur, Distt.- Sitamarhi

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Gyanand Roy, Advocate Ms. Akanksha Malviya, Advocate
For the Union of India	:	Mr. K.N.Singh, A.S.G Ms. Punam Kumari, C.G.C. Ms. Rinki Kumari, Advocate
For the State	:	Mr. Prabhu Narayan Sharma, A.C. to A.G.
For Respondent No.7	:	Mr. V.R.P. Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI
and
HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE VIPUL M. PANCHOLI)

3 19-03-2025 The present petition has been filed under Article 226



of the Constitution of India in which the petitioner has prayed that writ of habeas corpus be issued and thereby the respondent authorities be directed that the persons, who are named in paragraph-4 of the petition, be released from the illegal custody and illegal detention of respondent nos.7 and 8 along with their belongings.

2. Heard Mr. Gyanand Roy assisted by Ms. Akanksha Malviya, learned Advocates for the petitioner, Ms. Punam Kumari, learned counsel for the Union of India, Mr. Prabhu Narayan Sharma, learned A.C. to A.G. for the State as well as Mr. V.R.P. Singh, learned counsel appearing on behalf of respondent no.7.

3. Learned counsel for the petitioner referred the averments made in the memo of the petition and thereafter submitted that persons, who are referred in paragraph-4 of the petition, were contacted by respondents no.7 and 8 for preparing *Kachcha* brick in their *Shakti Marka* Brick Kiln situated at village Tarmamesol, P.S. Runnisaipur, District Sitamarhi (Bihar). All the 17 persons named in paragraph-4 of the petition were brought from West Bengal in October, 2024. Learned counsel further submits that, though the persons named in paragraph-4 of the petition wanted to go back to their villages,



respondent nos.7 and 8 did not permit them to go back to their villages and when the wages were demanded from the private respondents, their due wages were not paid by the private respondents. Learned counsel for the petitioner, therefore, urged that when the respondent nos.7 and 8 have forcibly kept/illegally detained 17 persons named in paragraph-4 of the present petition, the instant petition has been filed for issuance of writ of habeas corpus.

4. At this stage, learned counsel for the petitioner has also referred the other reliefs, as prayed for, in the petition and thereafter submitted that respondent nos.7 and 8 be directed to hand over the belongings of the concerned persons named in paragraph-4 of the petition. The petitioner has also prayed that the private respondents be directed to pay the due wages to them. It is also submitted that necessary action be taken against the private respondents under the provisions of Bounded Labour (Abolition) Act, 1976 and Inter State Migrant Workmen (Regulating of Employment and Condition of Service) Act, 1979. Learned counsel for the petitioner, therefore, urged that appropriate direction be issued to the respondent authorities, including respondent nos.7 and 8, i.e., the private respondents.

5. On the other hand, learned counsel appearing on



behalf of respondent no.7 has opposed the present petition. Learned counsel would submit that respondent no.7 has not illegally detained the persons who are named in paragraph-4 of the petition, as alleged. In fact, the concerned persons were brought by the Contractor from West Bengal and, in fact, advance payment has been made to the Contractor on the basis of the request made by the concerned labourers, i.e., the persons named in paragraph-4 of the petition. However, it has specifically been contended that they have not been detained illegally, as alleged in the memo of petition.

6. Learned A.C. to A.G. appearing on behalf of the State has also opposed the present petition by contending that the present petition is not maintainable and it is always open for the concerned labourers to file appropriate proceedings before the appropriate forum/authority for the grievances raised in the memo of petition as also for demand of wages. It is also submitted by learned A.C. to A.G. that it is always open for respondent no.7 to recover the amount from the concerned Contractor to whom the payment has been made and, in turn, it is open for the Contractor to recover the amount from the concerned labourers to whom the advance payment has been made, as contended by the concerned Contractor who is present



before this Court. Learned A.C. to A.G., therefore, urged that the present petition, for the reliefs which are prayed for in the present petition, may not be entertained.

7. Having heard learned Advocates for the parties and having gone through the materials placed on record, it would emerge that the petitioner, who is a resident of West Bengal and who was one of the labourers, has preferred the present petition in which certain allegations are levelled against the private respondents.

8. Considering the issues involved in the present petition and when the allegation of illegal detention has been levelled by the petitioner against the private respondents, we issued notice to the concerned respondents, including the private respondents, on 05.03.2025. Pursuant to the notice issued by this Court, today concerned police authority has produced the 17 persons, who are named in paragraph-4 of the petition, before us. The matter was taken up in Chambers. We have interacted with the 17 persons who are present. The allegation levelled by the 17 persons is that they have illegally been kept against their wish and the respondent no.7 is not permitting them to go back to their native places at West Bengal. However, on the other hand, the respondent no.7, the owner of the concerned brick



kiln, who is present before us, has submitted that he had not illegally detained the 17 persons, who are named in paragraph-4 of the petition, as alleged. In fact, it has been pointed out by respondent no.7 that he has made certain advance payment to the Contractor who has brought the 17 persons so that the Contractor can give the payment to the 17 persons. The Contractor is also present before us. When inquired, the Contractor has also admitted that he has received payment from respondent no.7 and, in turn, he has made the payment to the 17 persons as per their need and requirement. One instance has been pointed out by the Contractor that he had made payment of Rs.1,31,000/- to Taiyab Ali, whose name is referred at serial no.1 in paragraph-4 of the petition.

9. We are of the view that it is not open for us to go into the aforesaid disputes in the present proceedings. During interaction, all the 17 persons have pointed out that they want to go to their native places at West Bengal.

10. Looking to the aforesaid facts and circumstances of the present case, we are of the view that the private respondents have not illegally detained the 17 persons, who are named in paragraph-4 of the petition, as alleged, therefore, it is open for the persons, who are named in paragraph-4 of the



petition, to go to their native places as per their desire and respondent no.7 will permit them to go to their native places with their belongings and the luggage which are kept at the place of respondent no.7. The respondent police authorities are hereby directed to see that all the 17 persons, who are named in paragraph-4 of the petition, be permitted to go to their native places as per their desire with their belongings.

11. Thus, we dispose of this petition with the aforesaid observation. However, it is open for the concerned person/s to file appropriate proceedings before the appropriate authority/forum for the other grievances made in the present petition. Similarly, it is always open for the respondent no.7 and/or the Contractor to file appropriate proceedings for recovery of the advance payment, if any, which they have made to the concerned persons, who are named in paragraph-4 of the memo of petition.

(Vipul M. Pancholi, J.)

(Alok Kumar Pandey, J.)

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