

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.784 of 2024

Arising Out of PS. Case No.-124 Year-2022 Thana- ARA NAWADA District- Bhojpur

Vishal Kumar S/o Late Rameshwar Singh R/o village- Bhelain, P.S. -
Udvanthnagar, Distt. - Bhojpur.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary Dep. of Home (Police), Gov. of Bihar, Patna Bihar
2. The Director General of Police, Police Department, Gov. of Bihar, Patna Bihar
3. The Inspector General of Police, Shahabad Division, Bhojpur Bihar
4. The Deputy Inspector General of Police, Shahbad Division, Bhojpur Bihar
5. The District Magistrate, Bhojpur Bihar
6. The Superintendent of Police, Bhojpur, Distt. - Bhojpur Bihar
7. The Officer-in-Charge of Ara Sadar Police Station, P.S. - Ara Sadar, Distt. - Bhojpur Bihar
8. The Investigation Officer of Ara Sadar P.S. Case No. 124 of 2022, P.S. - Ara Sadar, Distt. -Bhojpur Bihar

... .. Respondents

Appearance :

For the Petitioner/s : Mr. Ashutosh Kumar, Advocate
For the Respondent/s : Mr. Gp.23

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

3 08-05-2025 Heard learned counsel for the petitioner and learned APP
for the State.

2. The following prayer has been made in the writ
petition:

(I) The present application is being filed to issue to writ
in the nature of certiorari commanding the respondents authorities to
release the Hero Honda Splendor Motorcycle bearing Registration
No. BR01FG5378, Chasis No. MBLHA1128HHF84659F12, POS
Printer, Laptop and cash Rs. 500/- in favour of the petitioner which



has been seized in connection with Ara Nawada P.S. Case No. 124 of 2022 dated 18.02.2022, registered for offence punishable under Sections 20B(ii) and 27 of the NDPS Act as petitioner is the valid owner of the said motorcycle and same was seized without any fault in his part.

3. The petitioner is accused in Ara Nawada P.S. Case No. 124 of 2022 dated 18.02.2022 registered for the offences punishable under Sections 20B(ii) and 27 of the NDPS Act.

4. The Supreme Court of India in the case of ***Bishwajit Dey vs The State of Assam*** reported in (2025) 3 SCC 241 and paragraph nos. 29 and 30 of the said judgment read as follows:

“29. Though seizure of drugs/substances from conveyances can take place in a number of situations, yet broadly speaking there are four scenarios in which the drug or substance is seized from a conveyance. Firstly, where the owner of the vehicle is the person from whom the possession of contraband drugs/substance is recovered. Secondly, where the contraband is recovered from the possession of the agent of the owner i.e. like driver or cleaner hired by the owner. Thirdly, where the vehicle has been stolen by the accused and contraband is recovered from such stolen vehicle. Fourthly, where the contraband is seized / recovered from a third-party occupant (with or without consideration) of the vehicle without any allegation by the police that the contraband was stored and transported in the vehicle with the owner’s knowledge and connivance. In the first two scenarios, the owner of the vehicle and/or his agent would necessarily be arrayed as an accused. In the third and fourth scenario, the owner of the vehicle and/or his agent would not be arrayed as an accused.

30. This Court is of the view that criminal law has not to be applied in a vacuum but to the facts of each case. Consequently, it is only in the first two scenarios that the vehicle may not be released on superdari till reverse burden



of proof is discharged by the accused-owner. However, in the third and fourth scenarios, where no allegation has been made in the charge-sheet against the owner and/or his agent, the vehicle should normally be released in the interim on superdari subject to the owner furnishing a bond that he would produce the vehicle as and when directed by the Court and/or he would pay the value of the vehicle as determined by the Court on the date of the release, if the Court is finally of the opinion that the vehicle needs to be confiscated.”

5. In this circumstance, I am of the view that during pendency of the trial, the vehicle in question cannot be released in favour of the petitioner. As such, the present writ application is disposed of with a liberty to the petitioner to approach the appropriate Court after the trial is over and if the petitioner is acquitted.

6. Accordingly, the present writ application stands disposed of.

(Sandeep Kumar, J)

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