

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23881 of 2025

Arising Out of PS. Case No.-44 Year-2024 Thana- GALGALIYA District- Kishanganj

Md. Abdul Sattar S/o Md. Manjur Khan R/o Singhia Jote, P.S.- Khoribari,
District- Darjeeling West Bengal

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Ms.Shweta, Advocate
		Mr.Pranjal Kumar, Advocate
For the Opposite Party/s	:	Mr.Shailendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 11-07-2025

Heard learned counsel appearing for the petitioner and
learned A.P.P. for the State.

2. The present application has been preferred under section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (in short the, 'B.N.S.S.') for quashing the order dated 22.01.2025 passed by learned Sessions Judge-cum-Special court, Kishanganj in Special Case No. 40/2024 registered for the offence punishable under Section 8(c), 21(b) of the Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as the 'N.D.P.S. Act') whereby and whereunder learned court below has rejected the petition filed by the petitioner for release of the vehicle (Motorcycle) bearing



Registration No. WB74BQ-4269 which was seized by the police.

3. The case of the prosecution in brief is that while the informant, who is the SSB personnel, got secret information on 06.06.2024 that accused persons is selling contraband articles, he constituted the raiding team and proceeded for patrolling. The informant alleged that during course of patrolling, two persons were seen coming towards Indian side and when asked to stop, they were tried to escape, but one person apprehended with motorcycle and other fled away. The informant further alleged that from possession of the said apprehended person, 42 grams of brown sugar was recovered along with one mobile phone. Accordingly, the alleged contraband including motorcycle were seized.

4. On the basis of aforesaid information, the present F.I.R. being Galgalia P.S. Case No. 44/2024 was registered under the aforesaid Sections of the I.P.C.

5. The vehicle in issue, as aforesaid, was claimed by petitioner being rightful owner.

6. Learned counsel appearing for the petitioner



submitted that petitioner is not named in the present F.I.R. He was implicated in this case only because he is the registered owner of the motorcycle in question. Learned counsel submitted that petitioner has no concern with the recovered contraband articles, which was being illegally taken away by the accused persons.

7. Learned counsel further submitted that petitioner undertakes that as and when the learned trial court/concerned court would direct to produce the vehicle in question, the same shall be produced before the concerned court.

8. While concluding the argument, learned counsel relied upon the legal report of Hon'ble Supreme Court as available through **Sunderbhai Ambalal Desai vs. State of Gujarat** as reported in **(2002)10 SCC 283** and prayed to release the aforesaid vehicle.

9. Learned A.P.P. for the State, while opposing the quashing petition, submitted that 42 grams of brown sugar, which is the contraband article, has been recovered from the motorcycle in question.

10. Having heard learned counsel for the parties and



after perusal of the records, it appears that petitioner is the registered owner of the motorcycle in question, where he has not named in the F.I.R., where confiscation proceeding is yet to start.

11. It would be apposite to reproduce para 21 of the legal report of Hon'ble Apex Court in the case of **Sunderbhai Ambalal Desai (supra)**, which reads as under:

“**21.** However, these powers are to be exercised by the Magistrate concerned. We hope and trust that the Magistrate concerned would take immediate action for seeing that powers under Section 451 CrPC are properly and promptly exercised and articles are not kept for a long time at the police station, in any case, for not more than fifteen days to one month. This object can also be achieved if there is proper supervision by the Registry of the High Court concerned in seeing that the rules framed by the High Court with regard to such articles are implemented properly.”

12. Accordingly, the impugned order dated 22.01.2025 passed by learned Sessions Judge-cum-Special court, Kishanganj in Special Case No. 40/2024 *qua* petitioner is hereby quashed/aside.

13. The present application stands allowed with directions to the learned trial court to release the Vehicle (**Motorcycle bearing Reg. No. WB74BQ-4269**) in



question against such sureties and conditions, satisfying the learned trial court/court concerned to petitioner/rightful owner. Further, the petitioner shall not sell or part with the ownership of the Vehicle till conclusion of the trial and shall furnish an undertaking to the trial court that he shall surrender the Vehicle within one week, of being so directed and/or pay the value of the Vehicle (determined according to Income Tax law on the date of its release), if so ultimately directed by the Court.

14. Let a copy of this order be sent to learned trial court/concerned court forthwith.

(Chandra Shekhar Jha, J.)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.07.2025
Transmission Date	11.07.2025

