

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.994 of 2025

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

Manish Kumar, Son of Raj Kishor Prasad Kushwaha, Rresident of Village-
Kaswa Kadamwa, PS- Ghorasahan Dist- East Champaran

... .. Petitioner

Versus

1. The State of Bihar through its Chief Secretary, Patna Bihar
2. The Director General of Police, Patna, Bihar
3. The Superintendent of Police, East Champaran At Motihari
4. The SHO Yoggapatti P.S, Bettiah, Dist- West Champaran
5. Dhruv Prasad Kushwaha Son of Lalbabu Prasad Kushwaha, Resident of
village- Sirsia, Shivraipur, PS- Yogapatti, Dist- West Champaran
6. Manju Devi, Wife of Dhruv Prasad Kushwaha, Resident of village- Sirsia,
Shivraipur, PS- Yogapatti, Dist- West Champaran

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Prateek Tandon, Advocate Mr. Rohit Ranjan, Advocate
For the State	:	Mr. Prabhu Narayan Sharma, AC to AG
For the Resp Nos. 5 & 6 :	:	Mr. Bimlesh Kumar Pandey, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

7 27-08-2025 Heard learned counsel for the petitioner and learned
counsel for the Respondent Nos. 5 & 6.

2. The petitioner and Respondent No. 5 both are
present in person. This Court has interacted with them in
presence of their learned Advocates.

3. The present writ application has been filed for
issuance of a Writ in the nature of Habeas Corpus directing
Respondent Nos. 5 and 6 (Respondent No. 7 has been deleted



vide order dated 24.07.2025) to produce the minor daughter of the petitioner who is presently in custody of Respondent No. 5.

4. The facts of the case reveal that the petitioner was married with the daughter of Respondent No. 5 on 25.04.2016 according to Hindu Rites and Customs. The couple were blessed with one son Advik Kumar on 20.04.2019 and one daughter Ishari Kiran Kumari (corpus) who was born on 28.07.2022. It is stated that the petitioner was happily married and there was no matrimonial discord between the petitioner and his wife. His wife had gone to her '*naihar*' with the corpus in the year 2022 and died in '*naihar*' on 26.10.2022. The Respondent No. 5 informed the petitioner about death of his wife and he along with his family members participated in her funeral.

5. After the death of the petitioner's wife, the maternal grandparents and the maternal uncle (Respondent Nos. 5, 6 and the deleted Respondent No. 7) requested the petitioner to leave the corpus for a fortnight with an assurance to hand over the corpus to the petitioner soon after completion of a fortnight but thereafter they refused to hand over the corpus to the petitioner who is the natural guardian.

6. The petitioner is a Nayak Nursing Assistant posted at Military Hospital, Danapur, Patna and is earning a salary of



Rs.83,627/- per month. It is his submission that Respondent No. 5 is unemployed having no apparent source of income. About the son who is living with the petitioner, it is stated that he is a student of Sanford Play School, Defence Colony, Shahpur, Patna and is availing several benefits granted to the petitioner and his family members by the military but unfortunately the corpus even though is legitimate child of the petitioner is being deprived of all such benefits granted by military forces.

7. It is submitted that now the corpus is eligible to be admitted in a school for her studies but because she is living presently with Respondent No. 5 in a remote village which is situated at a distance of fifty kilometer from the District Headquarter, West Champaran, Bettiah, her studies have yet not begun.

8. In course of submissions, it transpired that the petitioner was visiting from time to time to the village of Respondent No. 5 to meet his daughter where he was allowed to meet his daughter for few minutes whereafter allegedly the Respondent No. 5 does not allow the petitioner to meet his daughter for a long time.

9. This Court has been informed that the petitioner has been regularly paying substantial amount in the account of the



son and the niece of Respondent No. 5 in the name of the expenses of his daughter. In the supplementary affidavit filed on behalf of the petitioner, the Bank statement of the petitioner has been brought on the record by way of annexure and it is stated that the petitioner has deposited Rs.2,04,000/- in the year 2024-25 which is prior to filing of the instant writ application and during this period, he has paid Rs.2,87,000/- to Respondent Nos. 5 and 6. In fact, it is submitted that Respondent Nos. 5 and 6 have no love and affection towards the corpus and they are using corpus as a method of money making.

10. Learned counsel for Respondent No. 5 has submitted that Respondent No. 5 is always alive to the best interest of the child. As regards the money paid by the petitioner, the Respondent No. 5 submits that the money was being deposited by him in the account of his son and niece for the expenses of the girl child. The Respondent No. 5 has submitted that the allegation of using the corpus as a method of money making is not correct and he strongly denies the same.

11. The Respondent No. 5 does not dispute that the corpus is presently living in the village, she is aged about three years and at this stage she is required to be admitted in a good school to start with her studies. Admittedly, presently the corpus



is not going to any school and she is in a village situated fifty kilometer away from the Headquarter of the District of West Champaran, Bettiah. It is also not contested that because of her stay in the village, she is unable to get interact with her brother who is at Patna with his father.

12. After detail deliberations and interactions with the petitioner and Respondent No. 5 in presence of their lawyers, it has been agreed in the best interest of the child/corpus that the Respondent No. 5 shall henceforth bring the corpus, namely, Ishari Kiran Kumari to the house of the petitioner once in every two weeks on Saturday by 01:00 PM and she would be left to live with the petitioner, her grandparents and her brother freely on Saturday and Sunday. The travel expenses of Respondent No. 5 and the girl child shall be born by the petitioner.

13. The petitioner has himself offered that if Respondent No. 5 would like to stay in his house, he will allow him the accommodation and food with all respect and care.

14. It has further been agreed that in this manner, the daughter of the petitioner would be allowed to mix up with the family of the petitioner, her brother and grandparents for a period of three months, whereafter the petitioner may get her admitted in a good school at Patna or at any other place of his



posting and thereafter, the corpus/daughter of the petitioner shall continue to live with him.

15. The petitioner has offered that once his daughter starts living with him, the Respondent Nos. 5 and 6 as well as her maternal uncle would be free to visit the house of the petitioner to meet the daughter on any holiday with prior information to the petitioner. The petitioner will not create any obstacle in the meeting.

16. It has been agreed that for the present, for a period of three months, the petitioner shall continue to pay a sum of Rs.3,000/- (Rupees Three Thousand) per month to Respondent No. 5 towards the expenses of his daughter. Such amount shall be transferred as is being transferred presently in the account of the son of Respondent No. 5, namely, Deepak Kumar.

17. In view of the amicable resolution of the disputes between the parties, this writ application is being disposed of in terms of the understanding which have been recorded hereinabove.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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