

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Writ Jurisdiction Case No.1225 of 2023**

Arising Out of PS. Case No.-132 Year-2017 Thana- SANHAULA District- Bhagalpur

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Rajiv Kumar Ranjan @ Rajiv Ranjan, Son of Kapildev Das, Resident of  
village - Sanhoula, P.S. - Sanhoula, Distt. - Bhagalpur

... .. Petitioner/s

Versus

1. The Principal Secretary, Food and Civil Supply Department, Govt, Of Bihar,  
New Secretariat, Patna Bihar
2. The District Magistrate, Bhagalpur Bihar
3. The Sub-Divisional Officer, Bhagalpur Bihar
4. The Marketing Officer, Food and Civil Supply Department, Govt. of Bihar,  
Bhagalpur Bihar

... .. Respondent/s

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**Appearance :**

|                      |   |                                  |
|----------------------|---|----------------------------------|
| For the Petitioner/s | : | Mr.Rajive Ranjan Singh, Advocate |
| For the Respondent/s | : | Mr.Arvind Ujjwal, Advocate       |

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**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA**  
**ORAL JUDGMENT**

**Date : 11-12-2025**

The record taken up on mentioning being made on  
behalf of the petitioner.

2. Heard learned counsel for the petitioner and learned  
counsel for the State.

3. The present writ application has been filed seeking  
following reliefs :-

*“(i). For quashing the order dated  
16.05.2023 passed by Additional District and  
Session Judge-14<sup>th</sup>, Bhagalpur in Criminal Appeal  
No. 60/2022 arising out of Kahalgaon(Sanhaula)  
P.S. Case No. 132/2017.*

*(ii) For direction to the respondents to*



*release the Motorcycle Registration No.-JH 17H 7088 in favor of petitioner, which is seized in Kahalgaon (Sanhaula) P.S. Case No. 132/2017.*

*(iii) For Direction to the respondents to release the Vehicle to the petitioner in condition of on which seized in the year of 2017.*

*(iv) For any other relief/reliefs which is entitled the petitioner accordance with law”.*

4. It transpires from the record that Sanhaula P.S. Case No. 132 of 2017 was registered on the basis of written report of Block Supply Officer and the motorcycle of the petitioner bearing registration no. JH-17H-7088 was seized along with some food-grains of PDS shop. Thereafter, a confiscation proceeding was initiated and subsequently the motorcycle of the petitioner was confiscated by the Collector, Bhagalpur vide order dated 25.04.2022. Being aggrieved and dissatisfied with the aforesaid confiscation order, the petitioner filed Cr.Appeal No. 60/2022 before the court of learned District Judge, Bhagalpur. Thereafter, the learned Additional Sessions Judge-14, Bhagalpur, after hearing the parties, dismissed the appeal vide order dated 16.05.2023, which is under challenge before this Court.

5. The learned counsel for the petitioner submits that the investigation has been completed in this case and charge



sheet has been submitted. There is no further requirement of the motorcycle in the case before the learned trial court or for the prosecution agency. The motorcycle seized in this case has been kept at open place and is getting damaged every day. The learned counsel further submits that the petitioner would produce the motorcycle as and when required by the court if it is released in his favour. The learned counsel also submits that the motorcycle of the petitioner was confiscated but till date it has not been auctioned sold.

6. The learned counsel appearing on behalf of the State though opposes the submission made on behalf of the petitioner, however, submits that with security and undertaking to produce the motorcycle as and when required by the learned trial court, the prayer of the petitioner for release of his vehicle could be considered by this Court.

7. Perused the record.

8. Admittedly, the petitioner has challenged the order dated 16.05.2023 passed by the learned Additional Sessions Judge-14, Bhagalpur in Cr. Appeal No. 60/2022. Against such a judicial order, normally this writ petition could not be entertained. However, having regard to the facts that the present writ petition has been pending before this Court since 2023 and



now relegating the petitioner to have a recourse of proper proceeding would be unduly harsh. Moreover, the Hon'ble Supreme Court in the case of ***Sunderbhai Ambalal Desai Vs. State of Gujarat***, reported in ***(2002)10 SCC 283*** has observed the following:

*“In our view, the powers under Section 451, Cr.P.C. should be exercised expeditiously and judiciously. It would serve various purposes, namely:-*

- 1. Owner of the article would not suffer because of its remaining unused or by its misappropriation;*
- 2. Court or the police would not be required to keep the article in safe custody;*
- 3. If the proper panchnama before handing over possession of article is prepared, that can be used in evidence instead of its production before the Court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and*
- 4. This jurisdiction of the Court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles.”*

9. While dealing with the seized vehicles from time to time by the police either in commission of various offences or abandoned vehicles or vehicles which are recovered during investigation of complaint of thefts, the Hon'ble Supreme Court in the case of ***Sunderbhai Ambalal Desai*** (supra) further observed as under:-

*“In our view, whatever be the situation, it is of no use to keep such-seized vehicles at the police stations for a long period. It is for the*



*Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.*

*In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company then insurance company be informed by the Court to take possession of the vehicle which is not claimed by the owner or a third person. If Insurance company fails to take possession, the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchnama should be prepared.”*

10. Therefore, considering the fact that the damage to the vehicle is considered loss to national resources, I am of the view that the release of the vehicle could be ordered to stop further damage and wastage of the resources.

11. Accordingly, the impugned order dated 16.05.2023 passed by the learned Additional Sessions Judge-14, Bhagalpur is set aside and the motorcycle of the petitioner bearing Registration No. JH-17H-7088, seized in connection with Kahalgaon (Sanhaura) P.S. Case No. 132 of 2017, is directed to be released in favour of the petitioner/registered owner subject to the satisfaction and the conditions to be imposed by the



learned trial court, if the motorcycle is not auction sold.

12. Accordingly, the present petition is allowed.

**(Arun Kumar Jha, J)**

V.K.Pandey/-

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| AFR/NAFR          | NAFR       |
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