

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.49173 of 2023

Arising Out of PS. Case No.-586 Year-2021 Thana- BEGUSARAI TOWN District- Begusarai

Anita Devi Wife of Bhattu Singh Resident of village - Kapasiya, P.S. -
Begusarai Town, Distt. - Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shubhesh Pandey, Adv

For the Opposite Party/s : Mr. Navin Kr. Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 24-03-2025

Heard learned counsel for the petitioner and
learned counsel for the respondents.

2. The present quashing petition has been preferred to release the amount in favour of petitioner, who is mother of the accused by quashing the order dated 10.05.2023 passed by learned Additional Sessions Judge-I, Begusarai in Cr. Rev. No. 18 of 2023 in connection with Begusarai Town P.S. Case No. 586 of 2021 for the offences punishable under Sections 414 and 120(B) of the Indian Penal Code and Sections 25(1-B)a, 26 and 35 of the Arms



Act, pending in the Court of learned Judicial Magistrate, 1st
Class Begusarai.

3. From the crux of complaint petition, it appears that informant Jyoti Kumar gave a written application to S.H.O. Town P.S. on 22.09.2021. As per the prosecution case the informant police officer while on patrolling on 21.09.2021 at about 11:45 PM got secret information that co-accused Mintu Kumar was near bus stand. On information he along with police party reached there and apprehended co-accused Mintu Kumar. From whom one country-made pistol and two live cartridges were recovered from him. He disclosed that 12-13 days ago at the house near Rajendra Nagar at Power House, he and three co-accused persons had planned dacoity in the house of Sinha Ji. It is further alleged that they committed dacoity and took Rs. 10,000/- from there. He further disclosed that when policed raided house of Chiranjivi @ Chiraiya in night two co-accused were apprehended and during search one country made pistol, live cartridge, a samsung mobile and nine bundle of Rs. 500/- currency each containing 100 notes total amounting Rs. 4,50,000/- from



under the bed of the room of the house. Seizure list was prepared, accordingly.

4. It is submitted by learned counsel for the petitioner that for the perverse reason as petitioner failed to show her ownership upon seized cash, the prayer of release by the learned Trial Court was rejected through impugned order dated 10.05.2023. It is submitted that currency notes are not subject matter of ownership, hardly it can be looted or theft money or otherwise it may be subject of legitimate source, which may attract proceeding under Income Tax Act. It is pointed out that as per confessional statement only Rs. 10,000/- was alleged to be looted, but the recovery of Rs. 4,50,000/- was never in question and, therefore, it cannot said to be case/crime property. It is submitted that son of petitioner is accused. Mother of accused admittedly residing in same house executed two sale-deeds dated 11.08.2021 and 15.07.2021 against total consideration of Rs. 4,00,000/-, which was lying in her room, from where his son being accused along with two other co-accused arrested with country-made pistol and bullets. It is submitted that petitioner



satisfactorily explained the source of cash what she had with her in home.

5. It is submitted that learned Trial Court rejected her prayer as she prima-facie failed to establish the ownership over seized cash of Rs. 4,50,000/-. It is also submitted that no one came forward to claim the aforesaid cash.

6. Upon perusal of the counter-affidavit as supplied by D.S.P. Begusarai it appears that recovery was made from the house of this petitioner. It also appears from the counter-affidavit that as per allegation only Rs. 10,000/- was looted in one of the occurrence, where name of son being accused surfaced during investigation out of confessional statement of one apprehended co-accused. It nowhere appears out of counter-affidavit that why the cash was seized by police.

7. It would be appropriate at this stage to cite Section 451 of the Cr.P.C. for the better understanding of the case :-

451. Order for custody and disposal of property pending trial in certain cases.

—When any property is produced before any



Criminal Court during any inquiry or trial, the Court may make such order as it thinks fit for the proper custody of such property pending the conclusion of the inquiry or trial, and, if the property is subject to speedy and natural decay, or if it is otherwise expedient so to do, the Court may, after recording such evidence as it thinks necessary, order it to be sold or otherwise disposed of.

Explanation.—For the purposes of this section, “property” includes—

(a) property of any kind or document which is produced before the Court or which is in its custody;

(b) any property regarding which an offence appears to have been committed or which appears to have been used for the commission of any offence.

8. In view of aforesaid factual and legal discussions and by taking note of fact as petitioner, who is the mother of co-accused furnished prima-facie valid source of cash of Rs. 4,50,000/- which also not appears prima-facie corroborating in terms of confessional statement of co-accused Mintu Kumar, where alleged cash looted was Rs. 10,000/- only, which is the basis of entire prosecution,



therefore, the learned Trial Court is directed to release cash of Rs. 4,50,000/- immediately in favour of this petitioner, who is mother of co-accused Chiranjivi @ Chiraiya, after drawing a list/*panchnama*, mentioning details and denominations of each currency notes of Rs. 500 as seized from the house of this petitioner/co-accused Chiranjivi @ Chiraiya after obtaining an undertaking from petitioner and co-accused Chiranjivi @ Chiraiya that identification of aforesaid list/*panchnama* having details and denomination of each currency notes shall not be disputed during the trial. A videography regarding preparation of *panchnama* and detail of each currency note shall be made before release. Beside aforesaid, learned Trial Court i.e., Court of learned Additional Sessions Judge-I, Begusarai in connection with Begusarai Town P.S. Case No. 586 of 2021 may also impose other terms and conditions, which appears satisfying to it. Any such release shall be subject of outcome of the trial. Accordingly, impugned order dated 10.05.2023 is hereby quashed and set aside.

9. Hence, this application stands allowed.



10. TCR (Trial Court Records), if any, be returned to
the learned Trial Court alongwith the copy of this judgment.

(Chandra Shekhar Jha, J.)

S.Tripathi/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.03.2025
Transmission Date	29.03.2025

