

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1266 of 2024

Arising Out of PS. Case No.-32 Year-2024 Thana- CHANDI District- Bhojpur

Mirtunjay Nath Pandey, Son of Krishna Pandey, R/O Asahani, P.S.- Rasulpur,
Dist.- Saran, Bihar-841204

... .. Petitioner/s

Versus

1. The State Of Bihar through its Principal Secretary, Home Department Bihar
2. The Superintendent of Police, HM76plus9RJ, Ramna Maindan, Behind Collecriate Ghat, Old Police Line Arrah, Bihar 802301, Bhojpur
3. The S.D.P.O., HM76plus9RJ, Ramna Maindan, Behind Collecriate Ghat, Old Police Line Arrah, Bihar 802301 Bhojpur
4. Surendra Rai, The S.I.-Cum-S.H.O., Chandi Police Station, Chandi-Sahar road, SH81, Narhi, Bihar802161, Bhojpur
5. Prabin Kumar, Investigating Officer, Chandi Police Station, Chandi- Sahar Road, SH81, Narhi Bihar802161
6. Bisjit Singh Son of Mukesh Kumar Singh R/O Vill.- Nasratpur, P.S.- Sadesh, Dist.- Bhojpur

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sachin Kumar, Advocate
For the State	:	Mr. G.P. Ojha, GA 7
		Mr. Abhinav Ashok, AC to GA 7

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

6 13-02-2025

This is an application under Section 226 of the
Constitution filed by the owner of a truck bearing registration no.
BR-04G 5238 for the following reliefs:

*“i. For issuance of a Writ of Mandamus for
directing the respondent Authorities to release the
Vehicle which is a Truck having registration no. BR-
04G 5238, in connection with Chandi P.S. Case No.-*



32/2024 dated 16.03.2024 registered under sections 279, 337, 338, 304-A of the Indian Penal Code, as the F.I.R. is itself corroborative and a concocted story which could be reflected from the fact that the instant FIR has been registered after a delay of 12 days of the alleged occurrence.

ii. For directing the Respondent authority above the rank of S.H.O to fairly investigate and file the final form in this case as no such accident ever happened with the alleged truck rather Private Respondent No.6 in collusion with Respondent No. 5 lodged an F.I.R. to get damages from the Petitioner.

iii. For directing the respondent officials to act upon the alleged F.I.R. as since the registration of the present F.I.R., no any Final Form/Charge Sheet has been submitted to the concerned Magistrate under Section 173 of Cr. P.C., which itself puts a question mark on the functionality and conduct of the respondent No.5.

iv. For commanding the respondent police officials to present the injury report and the postmortem report as no any evidence could be made out from the alleged accident took place against the alleged truck, which raises the objection of the alleged occurrence;



V. For such other relief (s)/direction(s) as your lordships may deem fit and proper in the facts and circumstances stated hereinafter for the ends of justice.”

2. The prosecution story of the case in brief is that on 15th March 2024, the informant and his brother Aditya Kumar went to Ara to attend coaching class on a motorcycle bearing registration no. **BR-O3L-5097**. When they were proceeding towards home after the coaching class, the informant stopped the vehicle near Nasriganj to talk to some third person. His brother was sitting on the backside of the motorcycle at that time; the offending truck coming from behind dashed the motorcycle, as a result of which the pillion rider fell down and was run over by the truck. It is sufficient to state at this stage that the offending truck was seized; the owner of the said truck made an application before the learned Chief Judicial Magistrate, Bhojpur, at Ara for return of the vehicle vide order dated 05th June 2024. The application for release/return of the said truck was rejected by the learned Chief Judicial Magistrate on the ground that the alleged offending truck was not insured with any insurance company; therefore, the learned magistrate directed the owner of the truck to deposit the requisite amount in a nationalized bank under the scheme “बिहार वाहन दुर्घटना सहायता निधि.” No such amount has been paid or deposited



by the owner; on the other hand, the above order is challenged vide order dated 05th June 2024.

3. In ***Khengarbhai Lakhabhai Dambhala vs The State Of Gujarat (Cr. Appeal No. 1547 of 2024 decided on 08th April 2024)***, the Hon'ble Supreme Court in paragraph 16 of the said judgment held the importance of the return of a seized vehicle in proper custody pending the trial. On the basis of the principle laid down in ***Sunderbhai Ambalal Desai v. State of Gujarat***, reported in ***(2002) 10 SCC 283*** in paragraph 17 of the said judgment. It is observed by the Hon'ble Supreme Court as hereunder:

“17. In that view of the matter, the present appeal deserves to be dismissed and is hereby dismissed. It is however clarified that it shall be open for the Appellant to approach the concerned Court where the property/vehicle in question is sought to be produced during the course of inquiry or trial.”

4. In the instant case also, the judicial order dated 05th June 2024 is being challenged by filing a writ petition. Therefore, the instant writ petition is not maintainable and is accordingly dismissed.

5. However, this order does not preclude the petitioner to file a criminal revision before this Court challenging the legality and propriety of the impugned order.6. Since the vehicle is detained in



the premises of the police station for a long period, the petitioner is at liberty to pray for early disposal of the revision after the same being filed by him and obtaining the number of the revisional application.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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