

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.966 of 2022

Arising Out of PS. Case No.-21 Year-2021 Thana- KAJRAILI District- Bhagalpur

Manoj Kumar, Son of Ghyanchand Prasad, Resident of at Near Mount Assisi School, Rana Tower, GB Bibachak, P.S.- Babarganj, Distt.- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through Director General of Police, Patel Bhawan, Patna (Bihar). Bihar
2. The Superintendent of Police Bhagalpur. Bihar
3. The Investigating Authority, Kajarili, P.S.- Bhagalpur. Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajive Ranjan Singh, Advocate
For the Respondent/s : Mr. Iqbal Asif Niazi, AC to GP-5

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 07.06.2022 passed by learned IV, Additional District and Session Judge, Bhagalpur in N.D.P.S. Case No. 84 of 2021 arising out of Kajrili P.S. Case No. 91 of 2021.

(ii) For direction to release the vehicle bearing Registration Number BR10AD 9758 in the



favour of petitioner for any other relief/reliefs in title the petitioner accordance of law.

(iii) For any other reliefs/reliefs entitled the petitioner accordance with law”.

4. It transpires from the record that Kajraili P.S. Case No. 91 of 2021 was registered on the basis of written report of police official, who apprehended three miscreants and recovered 3.090 mg brown sugar. Their motorcycles were also seized. The petitioner is stated to be the owner of one of the motorcycles bearing registration no. *BR-10AD-9758*, who filed an application before the learned Additional Sessions Judge-IV, Bhagalpur in NDPS Case No. 84/2021 for release of his motorcycle. However, the learned trial court rejected the prayer for release of the motorcycle holding that the accused persons were found using the motorcycle for sale purchase of brown sugar and if the motorcycle was released, they would again use it for the same purpose.

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 bearing registration no. *BR-10AD-9758* has been kept at open place and



is getting damaged every day and even the insurance policy of the motorcycle expired on 03.12.2024. The learned counsel further submits that the investigating officer submitted a report before the learned trial court that he has no objection to release of the motorcycle. Despite this fact, the learned trial court refused to release the motorcycle in favour of the petitioner. 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 a confiscation proceeding has been initiated.

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 07.06.2022 passed by the learned Additional Sessions Judge-IV, Bhagalpur in NDPS Case No.84/2021. 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 2022 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 PC 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 07.06.2022 passed by the learned Additional Sessions Judge-IV, Bhagalpur is set aside and the motorcycle of the petitioner bearing Registration No. BR-10AD-9758, seized in connection with NDPS Case No. 84/2021, arising out of Kajraili P.S. Case No. 91 of 2021, 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.

12. Accordingly, the present petition is allowed.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	11.12.2025
Transmission Date	11.12.2025

