

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1855 of 2025

Arising Out of PS. Case No.-123 Year-2025 Thana- BARAHAT District- Banka

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M/S Damodar Enterprises through its Proprietor namely Gopal Pakhira Son of Shital Pakhira, Resident of Jotbani, Damodarpur, District- West Midnapore, P.S.- Daspur, West Bengal- 721211

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Dept. of Home, Govt. of Bihar, Patna Bihar
2. The Dist. Magistrate, Banka Bihar
3. The Superintendent of Police, Banka Bihar
4. The SHO, Barahat P.S., Banka Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Gautam Kumar Kejriwal, Advocate
		Mr. Alok Kumar Jha, Advocate
		Mr. Mukund Kumar, Advocate
		Mr. Akash Kumar, Advocate
For the Respondent/s	:	Mr. Rajeev Ranjan, AC to GP-20

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

5 22-09-2025 Heard learned counsel for the parties.

2. The petitioner has filed the present criminal writ petition seeking direction to the respondents to release silver ornaments, a Maruti Zen Estilo car bearing Registration No. WB-20ZI3629 and all other articles including mobile phones as mentioned in column number 4(3) of the search and seizure memo dated 22.04.2025 which were seized by the respondent



no. 4 in connection with Baharat P.S. Case No. 123 of 2025.

3. On previous dates, learned counsel for the petitioner has been heard at length on the merits of the case. However, considering the recent decision of the Hon'ble Supreme Court in the case of ***Khengarbhai Lakhabhai Dambhala Vs. The State of Gujarat*** in ***2024 INSC 285***, wherein the Hon'ble Supreme Court deprecated the tendency of parties directly approaching the High Court without approaching the concerned trial court under Section 451 of the Code of Criminal Procedure. The Hon'ble Supreme Court has held that the appellant without approaching the concerned court under Section 451 of the Code of Criminal Procedure , directly approached the High Court by filing Special Criminal Application under Article 226/227 of the Constitution of India, which could not be said to be the proper course of action for getting the custody of the property.

4. Therefore, the present writ petition should not be entertained by this Court and the same is disposed of with direction to the petitioner to approach the learned trial court and the learned trial court will pass appropriate order within a month from the date of receipt/production of a copy of this order having regard to the guidelines issued by the Hon'ble Supreme



Court in the case of *Sunderbhai Ambalal Desai Vs. State of Gujarat* in (2002) 10 SCC 283.

(Arun Kumar Jha, J)

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