

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1932 of 2025

Arising Out of PS. Case No.- Year-0 Thana- District- Nalanda

Abhay Kumar @ Abhay Yadav @ Baua Gope @ Baua, S/o Muneshwar Yadav
R/o Village- Bisunpur, PS- Telhara, District- Nalanda, Bihar

... .. Petitioner

Versus

1. The State of Bihar, through Principle Secretary, Department of Home, Govt. of Bihar, Patna.
2. The Principle Secretary, Department of Home (Police), Govt. of Bihar, Patna
3. The Deputy Secretary, Department of Home (Police), Govt. of Bihar, Patna
4. The District Magistrate, Nalanda, Bihar
5. The Superintendent of Police, Nalanda, Bihar

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Rajesh Kumar Singh, Senior Advocate Mr. Anil Kumar Singh, Advocate Mr. Ashish Kumar, Advocate Mr. Ambrish Kumar, Advocate
For the Respondents	:	Mr. Ramadhar Singh, G.P.25

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

4 11-09-2025 Heard Mr. Rajesh Kumar Singh, learned Senior

Counsel assisted by Mr. Anil Kumar Singh, learned counsel for

the petitioner and Mr. Ramadhar Singh, learned GP-25 for the

State.

2. The petitioner in this case is seeking the following
reliefs:-

“1.(a) That the present writ petition is
being filed on behalf of above named
petitioner before this Hon’ble High Court
for issuance of direction, order or writ,



including writ in the nature of certiorari
for quashing of the following order:

- Order of detention of petitioner issued by District Magistrate, Nalanda passed in Bihar Control of Crime Act (hereinafter referred as B.C.C.A) Case No. 01/2025 vide memo no. 2498 dated 17/06/2025 on fallacious grounds contained in memo no. 2499 dated 17/06/2025 whereby the petitioner has been declared anti-social element and an order of preventive detention for 6 Months.
- Order of Under Secretary, Government of Bihar, Home Department (Police Branch) approving the aforesaid detention order of District Magistrate, Nalanda vide Memo No. 7883 dated 24.06.2025.

1.(b) That the petitioner humbly prays to your lordships for issuance of a direction, order or writ, including writ in the nature of mandamus, directing the Respondent authorities to forthwith release the Petitioner from detention.

1.(c) That the above named petitioner prays to your lordships for issuance of a direction, order or writ, including writ in the nature of mandamus directing Respondent authorities to compensate the petitioner for the harassment and humiliation caused to the petitioner and his family members due to unjust,



arbitrary and manifestly illegal order
passed by the Respondent authorities.”

3. Learned Senior Counsel for the petitioner submits that on the proposal of the Superintendent of Police, Nalanda, Bihar (Respondent No. 5), the District Magistrate, Nalanda (Respondent No. 4) has passed an order for detention of the petitioner vide Memo No. 2498 dated 17.06.2025 saying that the order is being passed to prevent him from indulging in anti-social activities. A copy of the letter issued by the Respondent No. 4 has been enclosed as Annexure ‘1’ to the writ application.

4. It is stated that the detention order (Annexure ‘1’) has been approved by the Government of Bihar, Department of Home vide Memo No. 7883 dated 24.06.2025.

5. Learned Senior Counsel submits that the petitioner is on bail in all the three cases which have been made grounds for issuing the order of detention for six months against the petitioner by Respondent No. 4. It is submitted that earlier, the petitioner was arrested in connection with Telhara P.S. Case No. 103 of 2023 lodged under Sections 25(1B)A/26/35 of the Arms Act and in this case, the informant was the Police Sub Inspector Chandan Kumar, S.H.O. of Telhara Police Station. The petitioner was granted bail in the said case vide order dated 08.11.2023 in Bail Petition No. 764 of 2023 (Annexure ‘4’).



6. It is submitted that thereafter Telhara P.S. Case No. 138 of 2024 dated 18.09.2024 has been registered for the offences under Sections 190, 191(3), 126(2), 115(2), 109(1), 303(2), 351(2) of the Bhartiya Nyay Sanhita (in short 'BNS') and Section 27 of the Arms Act. It is submitted that thereafter, the petitioner was enlarged on anticipatory bail in the said case but he was detained for three months under the Bihar Control of Crimes Act, 1981 (hereinafter referred to as the 'BCC Act, 1981') from 27.01.2024 to 26.04.2024 by Respondent No. 4. It is submitted that one of the grounds taken by Respondent No. 4 to detain the petitioner was Bihar P.S. Case No. 671 of 2023 dated 29.07.2023 registered under Sections 147, 148, 149, 341, 323, 337, 338, 307, 379, 504, 506 of the Indian Penal Code (in short 'IPC').

7. Learned Senior Counsel has relied upon a learned co-ordinate Bench Judgment of this Court in the case of **Rajvardhan Kumar @ Rajvardhan Singh Vs. The State of Bihar and Others** in Cr.WJC No. 634 of 2024 to submit that the learned co-ordinate Bench has considered the definition of the word 'anti-social element' as occurring under Section 2(d) of the BCC Act, 1981 and it has been observed that a single instance of case falling under sub-clause (i) or sub-clause (iv) of



Section 2(d) of the BCC Act, 1981 would not bring the petitioner within the meaning of an anti-social element.

8. It is, thus, submitted that the impugned order is bad in law and is liable to be set aside.

9. On the other hand, learned GP-25 for the State has contested the writ petition by filing a counter affidavit. In the counter affidavit, the criminal history of the petitioner has been pointed out. According to this counter affidavit which has not been controverted by the petitioner by filing any rejoinder, the petitioner is facing as many as 17 cases on his head and most of them are for the offences of serious nature under the IPC/BNS and the Arms Act.

10. The respondents have pleaded that due to the criminal activities of the petitioner such as plundering, dacoity, etc, the atmosphere of fear and disturbance is prevalent in the society and it is adversely affecting the public system as well as law and order. He is in Central Jail, Bhagalpur due to which the common people are feeling safe and the crime is under control. The respondents have submitted that the Respondent No. 4 has rightly exercised his power under sub-section (2) of Section 12 of the BCC Act, 2024. The order of the Respondent No. 4 has been approved by the Hon'ble Advisory Board of the High



Court of Patna and the detention order has been found proper and justified having sufficient grounds. The State Government has confirmed the detention order vide Memo No. 9452 dated 22.07.2025.

11. In such circumstance, it is submitted that this Court sitting in its writ jurisdiction may not exercise its power of issuance of extraordinary writs.

12. Having regard to the submissions noted hereinabove and the materials which are available on the record, this Court finds that according to the uncontroverted statement of the respondents, the petitioner has got 17 cases on his head. Those are being enlisted hereunder for a ready reference:-

“(1) In Bihar P.S. Case No. 760/22 dated 11.10.2022 under Sections 341/342/323/379/504/506/34 I.P.C chargesheet has been submitted.

(2) In Bihar P.S. Case No. 129/20 dated 25.02.2022, under Sections 341/342/323/307/326/302/34 I.P.C chargesheet has been submitted.

(3) In Bihar P.S. Case No. 92/23 dated 01.02.2023, under Sections 147/149/341/342/323/504/506/387 I.P.C chargesheet has been submitted.

(4) In Laheri P.S. Case No. 205/16 dated 20.07.2016, under Sections 147/148/149/341/323/448/387/342/504 IPC & 3(i)(x)



SC/ST (Prevention of Atrocities) Act chargesheet has been submitted.

(5) In Laheri P.S. Case No. 202/16, dated 18.07.2016 under Sections 147/148/149/341/323/504/506 I.P.C chargesheet has been submitted.

(6) In Laheri P.S. Case No. 345/17, dated 16.08.2017, under Sections 147/148/149/354/323/427/506 I.P.C. & 27 Arms Act, chargesheet has been submitted.

(7) In Laheri P.S. Case No. 537/17 U/S 341/323/354/448/427/379/504/34 I.P.C. chargesheet has been submitted.

(8) In Laheri P.S Case No. 93/18, dated 09.04.2018 under Sections 147/148/149/356/387/427/504/506/307 I.P.C & 27 Arms act charge sheet has been submitted.

(9) In Laheri P.S Case No. 216/22, dated 04.05.2022 under Sections 147/148/149/447/341/323/504/384/307 I.P.C & 27 Arms act charge sheet has been submitted.

(10) In Laheri P.S Case No. 575/22, dated 13.11.2022 U/S 147/149/504/387 I.P.C charge sheet has been submitted.

(11) In Sohsarai P.S Case No. 06/2019 dated 06.01.2019 under Section 392 I.P.C charge sheet has been submitted

(12) In Telhara P.S Case No. 164/19 dated 13.12.2019, U/S 147/149/341/323/307/379/504/506 I.P.C, charge sheet has been submitted.

(13) In Bihar P.S Case No. 671/2019, dated 29.07.2023 U/S 147/148/149/341/



323/337/338/307/379/504/506 I.P.C under investigation.

(14) In Bihar P.S Case No. 17/19, dated 08.01.2019 U/S 341/323/342/379/504/34 I.P.C charge sheet has been submitted.

(15) In Telhara P.S. Case No. 103/2023, dated 08.09.2023 U/S 25(1-B)a/26 Arms Act, chargesheet has been submitted.

(16) In Telhara P.S. Case No. 138/24 dated 18.09.2024, U/S 190/191(3)/126(2)/115(2)/119(1)/303(2)/351(2) B.N.S. & 27 Arms Act.

(17) In Islampur P.S. Case No. 221/25 dated 29.04.2025 U/S 190/191(2)/191(3) / 109/111/121(1)/221/351(3)/352 B.N.S. & 27 of the Arms Act.”

13. This Court has further noticed that in the impugned order, the Respondent No. 4 has categorically recorded that after having been freed on bail in the six cases which have been mentioned in the order, this petitioner indulged in further unlawful act and got involved in at least ten other cases. This Court has further found that after his release from detention on the last occasion, the petitioner has further got indulged in two other cases i.e. Telhara P.S. Case No. 138 of 2024 and Islampur P.S. Case No. 221 of 2025 which are the cases of like nature i.e. for committing rioting, attempt to murder, organized crimes etc. and under Section 27 of the Arms



Act.

14. We have also gone through the judgment of the learned co-ordinate Bench of this Court in case of **Rajvardhan Kumar**. That was a case in which the petitioner was detained citing three cases against him. The learned co-ordinate Bench went through Section 2(d) of the BCC Act, 1981 and after discussing the said provision, the learned co-ordinate Bench was of the view that the word 'habitual' as occurring under sub-clause (i) and sub-clause (iv) be read in the light of the judgment of the Hon'ble Supreme Court in the case of **Vijay Narain Singh Vs. State of Bihar** reported in (1984) 3 SCC 14. The word "habitual" means "repeatedly" or "persistently". The Hon'ble Supreme Court held that it implies a thread of continuity stringing together similar repetitive acts. Repeated, persistent and similar, but not isolated, individual and dissimilar acts are necessary to justify an inference of habit. Having recorded the views of the Hon'ble Supreme Court, the learned co-ordinate Bench found that in the case at hand, the District Magistrate had relied upon three cases to treat the petitioner as an anti-social element but none of the cases, so relied upon, make the petitioner an anti-social element within the meaning of Section 2(d) of the BCC Act, 1981.



15. We are of the considered opinion that the judgment rendered by the learned co-ordinate Bench of this Court in **Rajvardhan Kumar @ Rajvardhan Singh** is in the facts of the said case which is evident from paragraph '21' of the said judgment. So far as the present case is concerned, this Court has already recorded hereinabove that initially the petitioner had got six cases on his head whereafter while enjoying the privilege of bail, the petitioner committed further eight offences, he was subjected to a detention order but soon after his release from detention, he got involved allegedly in two other cases which are at serial nos. 9 and 10 of the impugned order of detention. A perusal of the order of detention would further show that in course of collection of evidences, it has transpired that his role in commission of offences even during custody period in jail with the help of his associates cannot be ruled out.

16. In this regard, we refer Section 8 of the BCC Act, 2024 which talks of the nature of evidence and it reads as under:-

“8. Nature of evidence. -

The District Magistrate or the Commissioner may for the purpose of satisfying himself as to whether the condition necessary for the making or



confirmation of an order under Section 3 or Section 5 exist or not take into consideration any evidence which he considers to have probative value and the provisions of the Indian Evidence Act, 1872, shall not apply thereto.”

17. In the present case, we find that the State respondents are able to demonstrate that Respondent No. 4 has not transgressed the provisions of law and the petitioner has been detained after taking him as a habitual offender within the meaning of sub-clause (i) and sub-clause (iv) of clause (d) of Section 2 of the BCC Act, 1981.

18. We find no merit in the writ application. It is dismissed.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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