

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2087 of 2025

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

Sushil Kumar @ Sushil Yadav, S/o Sunil Yadav, Resident of Village-
Abdalpur Padaria, P.S. Nardiganj, District- Nawada,

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Department of Home, Government of Bihar, Patna.
2. The Under Secretary, Department of Home, Government of Bihar, Patna.
3. The District Magistrate, Nawada.
4. The Superintendent of Police, Nawada.
5. The Sub-Divisional Police Officer, Sadar 02, Nawada

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Man Mohan Kumar, Advocate
For the Respondents	:	Mr. Prabhu Narayan Sharma, AC to A.G.

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

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

4 15-09-2025 Heard learned counsel for the petitioner and learned
AC to AG for the State of Bihar.

2. Pursuant to the order dated 19.08.2025, learned AC
to AG has produced a copy of reasoned order as contained in
Memo No. 11900 dated 13.09.2025.

3. In our order dated 19.08.2025, we recorded as
under:-

“Since Annexure ‘P/4’ is not disclosing
the reasons for rejection of the
appeal/representation, we direct the



respondent State to produce the reasoned order of the Appellate Authority.

2. List this case on 03.09.2025.”

4. Today, the reasoned order has been produced and on going through the same, we find that this order has been prepared only after the order of this Court directing the respondents to place on record the reasoned order of the Appellate Authority. It is, thus, evident that no reasoned order was passed earlier.

5. Even after going through the reasoned order dated 13.09.2025 produced before us, we find that it contains no consideration of the representation of the petitioner. The order has been prepared in a routine and mechanical manner which nowhere shows application of judicious mind.

6. Learned counsel for the petitioner has relied upon a Division Bench judgment of the Hon’ble Calcutta High Court in **W.P.A. (H) No. 22 of 2025 (Jahanara Bibi @ Jahanara Begam @ Jahanara Mondal @ Janu Vs. Union of India and Others)**. Paragraph ‘18’ of the judgment has been referred to. It is contended that the authorities who have been conferred with the drastic power of passing the detention order or confirmation thereof must strictly follow the statutory requirement and the procedural and substantive safeguards as provided under Article



22 of the Constitution of India be followed even stricter.

7. At this stage, our attention has been drawn towards Section 19 of the Bihar Control of Crimes Act, 2024 (in short 'BCC Act, 2024'). Sub-section (1) of Section 19 of BCC Act, 2024 clearly provides that when a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, but ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing, not later than ten days from the date of detention, communicate to him the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order to the State Government.

8. It is evident that a safeguard has been provided under Sub-section (1) of Section 19 of the BCC Act, 2024 by way of providing an opportunity of making representation by a person detained under an order of detention. This right to submit representation cannot be treated as an empty formality.

9. Since we find no consideration given to the representation of the petitioner before passing the impugned order (Annexure 'P/4') by the Government, we set aside the impugned order (Annexure 'P/4').



10. The competent authority of the State Government shall consider the representation of the petitioner and pass a reasoned order dealing with the submissions of the petitioner. Such order must be passed within two weeks from the date of receipt/communication of a copy of this order, failing which the detention order shall be treated as not confirmed and the petitioner would be entitled to get released. The judgment cited by learned counsel for the petitioner shall also be placed before the competent authority.

11. This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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