

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.1935 of 2024

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

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Anita Devi @ Anita Kuwar, wife of Late Menu Singh, resident of Village-
Narharpur Chamari, Police Station- Gaura, District-Saran at Chapra

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Old Secretariat, Patna
2. The Principal Secretary, Department of Home, Government of Bihar, Old Secretariat, Patna
3. The Director General of Police, Bihar, Sardar Patel Bhawan, Bailey Road, Patna
4. The Deputy Inspector General of Police, Saran Range, Chapra
5. The Superintendent of Police, Saran at Chapra
6. The Sub-Divisional Police Officer, Madhaura, Saran
7. The Station House Officer, Bajigar Kumar, Gaura Police Station, Dist- Saran at Chapra
8. Sri A.K Chaudhary, Sub Inspector of Police along with five Constables of Gaura Police Station, Saran at Chapra

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Udai Shankar Singh, Advocate

For the Respondent/s : Mr. A.G.

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

And

HONOURABLE MR. JUSTICE S. B. PD. SINGH

CAV JUDGMENT

(Per: HONOURABLE MR. JUSTICE S. B. PD. SINGH)

Date : 07-02-2025

In the instant petition, the petitioner has prayed

for the following relief(s):-

*“That the petitioner invokes the
Criminal Writ Jurisdiction of this Hon’ble
Court for issuance of a writ in the nature of*

Habeas Corpus commanding and directing the respondents to release/produce the victim/son of the petitioner namely Sonu Kumar from unlawful custody/detention made by the respondent nos. 7 to 8.

And also issuance of an appropriate writ/writs, order/orders, direction/directions for commanding the respondents to institute an FIR against the responsible respondent nos. 7 and 8 for the offence committed by them with son of the petitioner.

And any other appropriate writs, order(s), direction(s) which your lordships may deem fit and proper.”

2. The case of the petitioner as per petition filed before this Court is that on 08.08.2024 at about 2:00 P.M, the S.H.O, Gaura Police Station (respondent No. 7) along with Sub-Inspector, A.K. Chaudhary (respondent No. 8) and five constables came at her house and arrested her son namely Sonu Kumar and took him away to the police station without any rhyme and reason and when the petitioner asked for the reason of arrest of her son, she was informed that her son (Sonu Kumar) has

been detained for an enquiry and after enquiry, he would be released from the police custody. It is further alleged that on the next day at about 2:00 A.M, the S.H.O of Gaura Police Station (respondent No. 7) along with other police officials came at the house of the petitioner and told her that her son had escaped from the police custody. They thereafter forcefully tried to take her signature on plain paper but she denied to put her signature on the said paper. The petitioner has filed written complaint (*Annexure-P-1* series) before the Chairman, State Human Rights Commission, Bihar for recovery of her son and to take legal action against the erring police officials. The petitioner has also filed an application before the learned Chief Judicial Magistrate, Saran at Chapra for recovery of her son (Sonu Kumar), but till date, her son has not been recovered nor any action has been taken against respondent Nos. 7 and 8. The petitioner had apprehension that her son was brutally assaulted, as a result of which, he might be died due to serious injury and

in order to save their skin, respondent Nos. 7 and 8 are alleging that her son (Sonu Kumar) escaped from the police custody.

3. Pursuant to the direction of this Court, respondent No. 5 has filed counter affidavit wherein it has been stated that son of the petitioner namely Sonu Kumar was apprehended by the police on 08.08.2024 in connection with Gaura P.S. Case No. 97 of 2024 which was registered on 14.07.2024 for the offences punishable under Sections 331 (4) and 305 of the BNS, 2023. The aforesaid Sonu Kumar was interrogated by the Investigating Officer and after interrogation, when the Police personnel left the interrogation room, he managed to escape by uprooting the window of the interrogation room. The escaping of Sonu Kumar from the police station was recorded in the CCTV Camera installed in the Police Station. A pen drive of the aforesaid incidence has been brought on record. The police, thereafter, registered Gaura P.S. Case No. 115 of 2024 dated 12.08.2024

against Sonu Kumar (son of the petitioner) under Section 262 of the B.N.S, 2023. During investigation of Gaura P.S. Case No. 115 of 2024, the C.D.R of mobile number xxxxxx1620, which was registered in the name of Sonu Kumar, was obtained from the service provider company. From perusal of the aforesaid C.D.R, it appears that in between 26.07.2024 to 19.09.2024, there were altogether 365 calls on the mobile number of xxxxxx5353 which was registered in the name of Anita Devi, the present petitioner, which clearly suggests that petitioner-Anita Devi was in regular contact with her son (Sonu Kumar) in between 08.08.2024 to 19.09.2024 and she was fully aware about the escape plans of her son (Sonu Kumar) and his whereabouts during his escape, instead, the petitioner has filed the present writ in order to target and tarnish the reputation of the police officials.

4. It is also pertinent to mentioned here as stated in para 11 of the counter affidavit that on 21.09.2024, aforesaid Sonu Kumar was apprehended at Taranagar,

Hrishipara, under Sidai Police Station of West Tripura District in the State of Tripura. The Police officials of Gaura Police Station, thereafter, filed an application for transit remand of the accused Sonu Kumar (son of the petitioner) before the I/C Chief Judicial Magistrate, Agartala, West, Tripura on 22.09.2024 which was allowed and the police parties are on way along with the accused Sonu Kumar to Saran at Chapra. A photocopy of the order dated 22.09.2024 has been annexed as Annexure R-5/B of the counter affidavit.

5. It is also stated in para 14 of the counter affidavit that Sonu Kumar (son of the petitioner) is also involved in four other cases apart from the present case which are (i) Marhaura P.S. Case No. 04 of 2024 dated 05.03.2024 under Sections 341, 323, 379, 504, 506/34 of the Indian Penal Code (ii) Gaura P.S. Case no. 115 of 2024 dated 12.08.2024 under Section 262 of BNS, 2023 (iii) Marhaura P.S. Case No. 291 of 2017 dated 10.07.2017 under Sections 302, 120(B)/34 of the Indian

Penal Code and Marhaura P.S. Case No. 331 of 2015 dated 08.09.2015 under Sections 427, 320, 511 of the Indian Penal Code.

6. Pursuant to the direction of this Court, original case diary as well as Station Diary have been made available before this Court. From perusal of the Station Diary, it clearly transpires that while writing in para 279 of the Station Diary regarding arrest and other details about son of the petitioner-Sonu Kumar, some tampering/cutting/overwriting was made as it appears that some portion of para 279 of the Station Diary was erased through whitener and new details were written which also suggests that police officials were not come up with clean hands with regard to the arrest of accused Sonu Kumar (son of the petitioner). The police has also not shown the reason for delay in lodging the F.I.R regarding absconding of accused Sonu Kumar from the police custody as Sonu Kumar absconded from the police custody on 08.08.2024 but the F.I.R in this regard was

registered on 12.08.2024. It is the duty of the officer-in-charge of a police-station to maintain a Station Diary and make sure that no tampering is made, as the Station Diary is a record of all important transactions/events taking place in a police station, including departure and arrival of police staff, handing over or taking over of charge, arrest of a person, details of law and order duties, visit of senior officers, etc. Since Station Diary is a record that is maintained chronologically on day-to-day basis, any tamper in the station diary can raise serious questions about the authenticity of the police action and it can change the fate of an accused or an innocent person. In that situation, the trust of public on the policing will be shaken and the above act of the police officers are highly deprecated.

7. So far as the maintainability of the present writ petition is concerned, it clearly transpires from the counter affidavit filed on behalf of respondent No. 5 that petitioner was fully aware about the whereabouts of her

son (Sonu Kumar) as CDR of mobile of the petitioner (Annexure-R-5/C and C/1) suggests that petitioner was in regular contact with her son (Sonu Kumar) in between 09.08.2024 to 19.09.2024, the period in which son of the petitioner-Sonu Kumar absconded himself from the police custody. Annexure-R-5/B of the counter affidavit also suggests that Gaura Police has filed a petition before I/C Chief Judicial Magistrate, Agartala, West Judicial District, Tripura for transit remand of son of the petitioner namely Sonu Kumar who was arrested on 21.09.2024 at Taranagar, Hrishipara, West Tripura in the State of Tripura. The application of the Gaura Police for transit remand has been allowed and the police officials of Gaura Police Station are on way with son of the petitioner Sonu Kumar to Saran at Chapra.

8. In the light of the aforementioned development, the present writ petition does not survive for consideration.

9. Accordingly, the present writ petition stands

dismissed.

10. The Registry is directed to return the original Station Diaries to the concerned Police Station at the earliest.

11. Let a copy of this judgment be sent to the Director General of Police, Bihar, Patna.

(S. B. Pd. Singh, J)

(P. B. Bajanthri, J)

Shageer/-

AFR/NAFR	AFR
CAV DATE	28/10/2024
Uploading Date	07/02/2025
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