

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1192 of 2025

In
Criminal Writ Jurisdiction Case No.2453 of 2025

Arising Out of PS. Case No.-266 Year-2024 Thana- HISUWA District- Nawada

Chandan Kumar S/O Shyamdev Singh R/O Vill.- Keshauri, P.S.-
Pakribarawan, Dist.- Nawada

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Dept., Govt. of Bihar, Patna Bihar
2. The Director General of Police, Sardar Patel Bhawan, Bihar, Patna
3. The Inspector General of Police, Gaya
4. The Collector-cum-District Magistrate, Nawada
5. The Superintendent of Police Nawada
6. The Station House Officer, Hisua Nawada
7. The Investigating Officer of the case, Hisua Nawada

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shankar Kumar, Advocate
For the Respondent/s : Mr. Mujtabaul Haque, GP-12
Mr. Manish Kumar, AC to GP-12

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 05-12-2025

Heard learned counsel for the petitioner as well as
learned counsel for the State.

02. The instant revision petition has been filed against
the order dated 31.07.2025, whereby and whereunder the
application filed by the accused-petitioner for release of his
Pulsar motorcycle bearing Registration No. BR27U-8151,
Chassis No. MD2B68BX2RWA37087 and Engine No.



DHXWRA44418 and Mobile phone of Vivo company bearing IMEI No. 861297055234553 seized in connection with NDPS Case No. 08 of 2024, arising out of Hisua P.S. Case No. 266 of 2024 registered for the offences under Sections 20(b)(ii)(B) of NDPS Act rejected by the learned Additional Sessions Judge-1st, Nawada.

03. Briefly stated facts of the case are that during patrolling three persons on two motorcycles were found in suspicious conditions talking to each other. They tried to run away on seeing the police party. They were chased and apprehended. Petitioner was found driving a Pulsar motorcycle and 5 kg of Ganja was recovered from a bag kept between the petitioner and co-accused Bablu Singh. Police team seized the contraband, motorcycles, mobile phones and cash from the petitioner and two other co-accused persons. The petitioner has approached this Court for release of his motorcycle and mobile phone.

04. Learned counsel for the petitioner submits that the impugned order has been passed without consideration of facts and the law applicable. Petitioner is the registered owner of the motorcycle seized in the case and the mobile phone with allegation that recovery of 5 kg of *Ganja* was made from a



plastic bag kept on the motorcycle on which the petitioner and two co-accused persons have been travelling. The Court did not consider the fact that the petitioner was made accused in the case merely because of the fact that the petitioner is the registered owner of the vehicle from where recovery has been shown. Learned counsel further submits that the charge sheet has been submitted in this case against the petitioner and other co-accused persons and petitioner has been granted bail vide order dated 09.12.2024 passed in Cr. Misc. No. 82860 of 2024. Learned counsel further submits that that even no adverse report has been submitted either by the I.O. of the case or by the District Transport Officer. Rather the IO submitted that there was no further requirement of the motorcycle in the investigation. Similarly as the investigation has been completed, the police need not keep the mobile phone in its custody. The motorcycle along with mobile phone of the petitioner was seized on 14.05.2024 and since then these are getting damaged every day. The learned trial court did not consider the guidelines issued by the Hon'ble Supreme Court from time to time about release of case property especially the vehicles considering the fact that leaving the vehicles to rot and become junk in the police stations results in wastage of resources and adds to



national loss. Learned counsel reiterates that the motorcycle of the petitioner has been kept in open condition and getting damaged every day. Learned counsel further submits that no confiscation proceeding has been started in the present case. Learned counsel thus submits that in these circumstances impugned order is completely illegal.

05. Learned counsel appearing on behalf of the State-respondents submits that the confiscation proceeding has not been started in the present case.

06. Perused the record.

07. From perusal of the record, it transpires that the motorcycle of the petitioner has been seized as it was found that 5 kg of *Ganja* was being carried in one plastic bag kept on the motorcycle between the two persons. The learned trial court has not furnished any reason for rejection of the application of the petitioner for releasing of the motorcycle and mobile phone. Merely saying that 5 kg of *Ganja* was seized which was kept on the motorcycle would not suffice for the purpose of not releasing the vehicle. Moreover, the learned trial court has failed to give reason as to why the seized motorcycle is required to be kept in custody and how it will serve the purpose of the trial of the case as in the same breath, the learned trial court has



observed that the motorcycle is liable to be confiscated. 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.”*

08. 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.”

09. Considering the fact that the order impugned has been passed without consideration of fact or law, the impugned order dated 31.07.2025 cannot be sustained and hence the said order is set aside. Therefore, subject to the satisfaction and the conditions to be imposed by the learned trial court, the Pulsar motorcycle of the petitioner bearing Registration No. BR27U-8151, Chassis No. MD2B68BX2RWA37087 and Engine No. DHXWRA44418 and Mobile phone of Vivo company bearing IMEI No. 861297055234553 seized in connection with NDPS Case No. 08 of 2024, arising out of Hisua P.S. Case No. 266 of 2024 is directed to be released. The mobile phone will be released after ascertaining its requirement for the purpose of



investigation.

10. Accordingly, the present petition stands disposed
of.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.12.2025
Transmission Date	06.12.2025

