

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.3123 of 2025

Arising Out of PS. Case No.-102 Year-2025 Thana- DEV District- Aurangabad

Lakhan Ram S/O Chandar Ram Resident of Village- Shahpur, Post-
Karsawan, P.S.- Fesar, District- Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Home Deptt. Govt. of Bihar, Patna BIHAR
2. The Additional Chief Secretary, Home Dept. Govt. of Bihar Patna
3. The Dist. Magistrate Gaya
4. The Senior Superintendent of Police Gaya
5. The Station Head Officer, P.S.- Banke Bazar Dist.- Gaya
6. The Station Head Officer, P.S.- Dev Dist. Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Sharma, Advocate
For the Respondent/s	:	Mr. Mujtabul Haque, G.P.12 Mr Pranoy Kumar, AC to GP-12

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 11-12-2025

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

2. This writ petition has been filed seeking the
following reliefs:-

“1) That, the instant writ application filed for directing to concerned respondent authorities to release the stolen vehicle (Hero Splendor Motorcycle) bearing registration number BR26V7086, Chesis No. MBLHAW123NHD53508, Engine No.- HA11EDNHD88227 which has been stolen by unknown person, for which Dev P.S. Case No.-102/2025 dt. 22/04/2025, registered u/s



303(2) Bhartiya Nayay Sahita thereafter the same vehcile (sic.) seized by the police officials of Banke Bazar police station and a case was registered Banke Bazar P.S. Case No.-61/2025 dt. 11/05/2025 u/s 30(a) of Bihar Prohibition of Excise (Amendment) Act. The same vehicle is laying in the open yard resulting decay and causing financial lost to the petitioner.

ii) For issuance any other relief / reliefs which the Hon'ble Court may be granted to the petitioner in the interest of justice.”

3. The brief facts of the case are that, on 11.05.2025, the police received secret information about a person carrying country made *mahua* liquor on a motorcycle. A trap was laid and on seeing the police party, the rider fled away leaving behind his motorcycle and a bag which he had been carrying on the motorcycle. From the bag, recovery of 70 liters of country made *mahua* liquor was made. The motorcycle was also seized and Banke Bazar P.S. Case No. 61 of 2025 was registered on 11.05.2025 against the driver and owner of the said motorcycle.

4. Learned counsel for the petitioner submits that the petitioner is the registered owner of the motorcycle bearing Registration No.-BR26V7086. The petitioner claims that his motorcycle had been stolen on 20.04.2025 and Dev P.S. Case No. 102 of 2025 has been lodged under Sections 303(2) of Bharatiya Nyaya Sanhita, 2023 prior to the institution of FIR in



the instant case. Learned counsel further submits that time and again the Hon'ble Supreme Court issued guidelines about release of vehicle 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 further submits that the vehicle of the petitioner is kept in open sky and the efficiency of the vehicle is deteriorating day by day. Learned counsel further submits that no confiscation proceeding has been started in the present case.

5. Learned APP for the State opposes the submission made on behalf of the petitioner submitting that the vehicle of the petitioner was involved in illicit trade of liquor.

6. I have given my thoughtful consideration to the rival submission of the parties and perused the record.

7. 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.”

8. 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.”

9. In the aforesaid facts and circumstances, since no useful purpose would be served in keeping the vehicle seized, therefore, considering the law laid down by the Hon’ble Supreme Court in the case of *Sunderbhai Ambalal Desai (supra)*, during pendency of the matter before the concerned authority, it is directed that the motorcycle in question bearing registration number **BR26V7086**, chassis number **MBLHAW123NHD53508**, and engine number **HA11EDNHD88227**, in connection with Banke Bazaar P.S. Case No. 61 of 2025, be released in favor of the petitioner, subject to such terms and conditions as may be imposed by the court concerned.

10. Accordingly, the present writ petition stands allowed.

(Arun Kumar Jha, J)

Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.12.2025
Transmission Date	12.12.2025

