

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.138 of 2026

Arising Out of PS. Case No.-66 Year-2024 Thana- BUXAR District- Buxar

Deodutt Upadhyay S/o- Late Yamuna Upadhyay Resident of Sohni Patti Ward
no- 21 PO- Buxar, PS- Buxar(T) and District- Buxar

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Govt. of Bihar, Patna Bihar
2. The Director General of Police, Old Secretariat, Patna Bihar
3. The Director, Bihar Forensic Science Laboratory, Patna Bihar
4. The Inspector General of Police, Patna Division, Buxar Bihar
5. The Superintendent of Police, Buxar Bihar
6. The SHO, Town Thana, Buxar Bihar
7. The Investigating Officer, Town Thana, Buxar Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ranjeet Choubey, Advocate
For the Respondent/s : Smt. Binita Singh, S.C. 28

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL ORDER

2 19-06-2026 Office has pointed out certain defect(s) and the learned counsel for the petitioner submits that he wants to delete relief nos. 1. I, II and V and retaining the relief nos. 1.III, IV and VI.

2. The petitioner has filed the present petition seeking following relief(s):

“I. For issuance of an appropriate writ/writs, order/orders, direction/directions for quashing and setting aside the impugned orders dated 08.10.2025 and 16.10.2025 passed by the learned District & Additional Sessions Judge-



III, Buxar in Sessions Trial No. 193/2024, whereby the learned court has (i) closed the prosecution evidence, (ii) refused to grant further time for procuring and bringing on record the FSL report, despite the same being a crucial piece of evidence supporting the prosecution case, and (iii) consequently fixed the matter for recording the statement of the accused under Section 313 of the Code of Criminal Procedure.

II. For issuance of further appropriate writ/writs, order/orders, direction/directions commanding the learned trial court to reopen the prosecution evidence and to grant adequate and reasonable time to the prosecution for producing the FSL report, considering that the said report is crucial for establishing the offence. Denial of an opportunity to bring essential evidence on record amounts to violation of the right to a fair trial guaranteed under Article 21 of the Constitution of India.

III. For issuance of further appropriate writ/writs, order/orders, direction/directions commanding the learned trial court not to proceed further in the matter, and for staying all further proceedings in Sessions Trial No. 193/2024, including the recording of the statement of the accused under Section 313 of the Code of Criminal Procedure, during the pendency of this writ petition.

IV. For issuance of further appropriate



writ/writs, order/orders, direction/directions for transferring Sessions Trial No. 193/2024 to the Court of the learned D.A.S.J.-II, Buxar, who had earlier been seized of the matter, since the case was transferred vide order dated 04.09.2025 on the application of the accused, which has caused prejudice to the fair adjudication of the proceedings.

V. For issuance of further appropriate writ/writs, order/orders, direction/directions commanding the respondent authorities to produce the FSL report and all other relevant evidence expeditiously, so as to ensure a fair and timely trial in accordance with law.

VI. For issuance of any other writ/writs order/orders direction/directions as it deem fit in the facts and circumstances of the case.”

3. The relief(s) sought by the petitioner at 1.III and 1.IV are for staying all proceedings in Sessions Trial No. 193/2024, including the recording of the statement of the accused under Section 313 of the Code of Criminal Procedure, by commanding the learned trial court not to proceed further in the matter apart from seeking direction to transfer the Sessions Trial No. 193 of 2024 to the court of learned District & Additional Sessions Judge-II, Buxar. Such reliefs against judicial proceeding could not be granted in a criminal writ filed



under Article 226 of the Constitution of India and reliance could be placed on the decision of Hon'ble Supreme Court in the case of *Neeta Singh & Ors. Vs. The State of Uttar Pradesh & Ors, 2024 SCC OnLine SC 5761* which referred to the decision of *Radhey Shyam Vs. Chhabi Nath, (2015) 5 SCC 423* wherein it has been held that the judicial orders of the civil court are not amenable to writ jurisdiction under Article 226 of the Constitution. Against a judicial order or proceedings, the course open to the petitioner is to approach this Court under Article 227 of the Constitution of India by filing a criminal miscellaneous petition in terms of Rule 3(iii) and (v) of Chapter XII of Part A of the Patna High Court Rules.

4. Similarly, for transfer of criminal trial from one court to another court within a district, the learned Sessions Judge is competent to pass such order and for inter-district transfer, this Court could pass order under Section 407 of the Criminal Procedure Code/ Section 447 of Bharatiya Nagarik Suraksha Sanhita. Therefore, the present writ petition is not maintainable.

5. Faced with the situation, learned counsel for the petitioner seeks permission to convert the instant criminal writ petition into a criminal miscellaneous petition.



6. Permission is accorded.

7. Learned counsel for the petitioner is permitted to convert the present criminal writ petition into criminal miscellaneous petition, within two weeks.

8. The office is directed to extend all co-operation to the learned counsel for the petitioner towards conversion.

9. As soon as the petitioner takes step for conversion of the petition, the converted petition be listed before the appropriate Bench.

(Arun Kumar Jha, J)

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