

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2532 of 2026

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Madhurendra Singh Son of Medi Singh, Ekbalganj Nisarpur, P.O. Ekbalganj Nisarpur, Birdhaur, Patna, Bihar (801112).

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Mines and Geology Department, Government of Bihar, Patna.
2. The Director, Mines and Geology Department, Government of Bihar, Patna.
3. The District Magistrate, Patna.
4. The Sub-Divisional Officer, Danapur, Patna.
5. The City Superintendent of Police, West, Patna.
6. The District Mines Officer, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Abhinav Shrivastava, Sr. Advocate Mr. Nilanjan Chatterjee, Advocate Mr. Kumaresh Singh, Advocate Mr. Ujjwal Raj, Advocate Mr. Sahil Kumar, Advocate Mr. Anirvan Choudhari, Advocate Ms. Jyoti Prakash, Advocate Mr. Sarvajit Kumar, Advocate
For the Respondent/s	:	Mr. Sitaram Yadav, GP-16 Mr. Yatindra Narayan, AC to GP-16
For the Mines	:	Mr. Naresh Dikshit, Spl.P.P. Mr. Brij Bihari Tiwary, Advocate Mr. Utkarsh Pathak, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

4 23-04-2026 Heard Mr. Abhinav Shrivastava, learned Senior counsel for the petitioner duly assisted by Mr. Nilanjan Chatterjee, Mr. Sitaram Yadav for the State and Mr. Naresh Dikshit, learned Spl.P.P.

2. The present petition has been preferred for the following relief(s):



“i. Issue an appropriate writ in the nature of certiorari for quashing and setting aside the order dated 18.01.2026 issued jointly under the pen and signature of Sub-Divisional Officer, Danapur and the City Superintendent of Police, West, Patna, whereby the petitioner has been directed to use the old passage for transportation of sand from the sandghats and has been restrained from using the present passage;

ii. Issue an appropriate writ in the nature of mandamus commanding and directing the respondents to permit the petitioner to continue with the mining and transportation activities in respect of Sand Ghat Cluster No. 12 through the present passage/route which is in use, without any interference save in accordance with law;

iii. To restrain the respondents acting in cahoots at the behest of the miner of Sand Ghat Cluster No. 17A or any other private party from obstructing or interfering with the petitioner's lawful mining and transportation activities;



iv. To stay the operation of the order dated 18.012026 till the pendency of the instant case and direct the respondents to allow the petitioner in undertaking the mining and transportation activities;

v. Any other relief/reliefs that the petitioner may be found entitled to in the facts and circumstances of the present case.”

3. The petitioner has entered into an agreement with the Mines Department, Bihar, Patna for the sand mining of **Sand Cluster No. 12** under the different Police Stations of **Paliganj, Rani Talab and Kanpa** in the district of **Patna** on **29.04.2024** for five years period.

4. One of the condition of the agreement as recorded in paragraph-4 is that the lessee will have to make approach road for transportation of mineral as per the route decided in district Survey report and he shall also allow the other settlee to transport the mineral in auction area in favour of him.

5. It is the case of the petitioner that for the smooth movement of the vehicles, he entered into an agreement with the locals through different dates between 14.01.2025 to June,



2025. This has been brought on record by way of Annexure-P/4 to the rejoinder to the counter-affidavit.

6. However, the petitioner was surprised to receive the letter/order dated **18.01.2026** jointly issued by the **Sub-Divisional Officer, Danapur and the City Superintendent of Police, West Patna** by which he has been directed to use the old passage for the transportation of sand restraining him from using the present passage which was being used for transportation following the agreement with the locals.

7. Aggrieved, the present petition.

8. This Court took up the matter on 02.04.2026 and wanted the State respondents to answer to the contention that before the said decision taken jointly by the respondents, neither there was any complaint nor he was put on notice.

9. A counter-affidavit has come on behalf of the respondent no. 4, the Sub-Divisional Officer, Danapur and the stand is that the decision has been taken under **Section 126 of the BNSS and Bihta Non FIR Case No. 4 of 2026** has also been lodged on 05.01.2026.

10. Learned Senior counsel for the petitioner, Mr. Abhinav Shrivastava has taken this Court to **Section 126 of the Bhartiya Nagarik Suraksha Sanhita, 2023** (henceforth for



short, ‘the BNSS’) which read as under:

“126. Security for keeping peace in other cases.

-When an Executive Magistrate receives information that any person is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity and is of opinion that there is sufficient ground for proceeding, he may, in the manner hereinafter provided, require such person to show cause why he should not be ordered to execute a bond or bail bond for keeping the peace for such period, not exceeding one year, as the Magistrate thinks fit.

(2) Proceedings under this section, may be taken before any Executive Magistrate when either the place where the breach of the peace or disturbance is apprehended is within his local jurisdiction or there is within such jurisdiction a person who is likely to commit a breach of the peace or disturb the public tranquillity or to do any wrongful act as aforesaid beyond such jurisdiction.”

11. Learned Senior counsel submits that a perusal of the said section would show that if there is any likelihood of breach of peace or disturbance of public tranquility, the person concerned has to be noticed.



12. His submission is that completely wrong section has been quoted to justify the illegal decision. Further, it is not the case of the respondents that at any point of time, he was put on notice, thus making even Section 126 of 'the BNSS' inapplicable. In fact, the respondents are acting in a very highhanded manner and for the reasons best known to them, they even entered in the house of the Manager of the present petitioner in the midnight which finds recorded in paragraph-9 of the rejoinder of the petitioner to the counter-affidavit filed on behalf of the respondents on 22.04.2026.

13. The said paragraph records that the Police without any warrant entered in the house of Krishna Murari Sharma at 12:30 AM on 23.02.2026 and started searching it. This followed the complaint filed by the Manager before the Director General of Police, Patna highlighting the illegal action of the officials.

14. Learned Senior counsel sums up his case submitting that the order in question has to go.

15. Counter-affidavit has come on behalf of the respondent no. 4 as recorded above and learned State counsel submits that certain complaints indeed came which included the rival faction who has entered into an agreement with the



Mining Department with regard to Sand Cluster No. 17A. In that background, the order in question has been passed which is justified.

16. However, on query, whether the petitioner was put on notice before the order in question was passed, the answer is not forthcoming.

17. The Mining Department has come up with another affidavit to show that following the dispute between both the parties, they have constituted a three men committee and will be coming to a positive conclusion at an earliest once the report is submitted.

18. Having heard the parties and on perusal of the records, this Court deems it appropriate to examine Section 126 of 'the BNS' which already stands recorded above and needs no repetition. The aforesaid section relates to likelihood of breach of peace or disturbance of tranquility and if the authorities have apprehension, the concerned person has to be noticed/show-cause as to why he should not execute a bond for keeping the peace for a particular period not exceeding one year.

19. No such show cause was even issued to the petitioner nor such stand has been taken by them.



20. The respondents have come up with a plea that they took note of Section 126 of 'the BNSS' to pass the said order. In the opinion of the Court, though they chose to hide behind the Section 126 of 'the BNSS' the respondents have certainly acted contrary to what has been recorded in it. In fact, the respondents have firstly taken a decision and now they are coming up with an alibi which cannot be allowed.

21. So far as the entry into a house at 12:30 AM, without any warrant is concerned, since it is the stand of the petitioner that they have already preferred a petition before the DGP, Bihar, Patna, the Court refrains from making further comment on it but it expects that appropriate action shall be taken by the concerned official in accordance with law.

22. The facts have been incorporated, the submissions have also been recorded. This takes the Court to only one conclusion, the order dated 18.01.2026 jointly passed by Sub-Divisional Officer, Danapur and the City Superintendent of Police, West, Patna is an illegal order and as such, it has to go.

23. Accordingly ordered.

24. The order dated 18.01.2026 passed by Sub-Divisional Officer, Danapur and the City Superintendent of



Police, West, Patna stands quashed.

25. The respondents are free to initiate appropriate proceeding afresh in accordance with law, if situation so warrant.

26. The writ petition stands disposed of with aforesaid observation.

(Rajiv Roy, J)

Adnan/-

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