

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.504 of 2026

Arising Out of PS. Case No.-73 Year-2025 Thana- Jai Bajrang District- East Champaran

Mithilesh Kumar Dwivedy S/O Nand Kishore Dwivedy R/O Village- Parsoni
Devajeet, P.S.- Jaybajrang Partapur, District- East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary of Home Department, Bihar, Patna. Patna
2. The Director General of Police, Patel Bhawan, Patna. Bihar
3. The Superintendent of Police, East Champaran.
4. The Dy. S.P., East Champaran. Bihar
5. The Station House Officer, Jaibajrang Police Station, East Champaran. Bihar
6. The Investigation Officer, Police Station- Jaibajrang, East Champaran. Bihar
7. Arun Patel @ Chutu Patel Son of Late Radhika Rai Resident of Village- Thikaha Asavari Banjariya, P.S.- Kathaiya, District- Muzaffarpur.
8. Younger Brother of Arun Patel @ Chutu Patel (Name not known), Son of Late Radhika Rai Resident of Village- Thikaha Asavari Banjariya, P.S.- Kathaiya, District- Muzaffarpur.
9. Golu Devi Wife of Anil Patel Resident of Village- Asavari Banjariya, P.S.- Kathaiya, District- Muzaffarpur.
10. Abhishek Kumar Son of Late Pappu Rai. Resident of Village- Parsoni Devajeet, P.S.- Jaibajrang Partapur, District- East Champaran.
11. Beauty Kumari Daughter of Late Pappu Rai. Resident of Village- Parsoni Devajeet, P.S.- Jaibajrang Partapur, District- East Champaran.
12. Kanti Devi Wife of Late Pappu Rai. Resident of Village- Parsoni Devajeet, P.S.- Jaibajrang Partapur, District- East Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Krishna Kant Singh, Advocate
For the Respondent/s : Mr. P.K. Shahi, A.G.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE SUDHIR SINGH)

2 18-03-2026 Heard learned counsel for the parties.

2. The following relief has been sought in the present



criminal writ petition:

“ (i) For that the instant writ application is being filed in to get the minor daughter of the petitioner released from the illegal custody of the private respondents No.7 to 12 who have kidnapped the minor daughter of the petitioner namely ‘X’ and inspite of giving all information the official respondent have not taken any step to rescue/ recover the minor daughter of the petitioner and have also not taken any action against private respondents and to ensure fair and proper investigation.”

(ii) For issuance of any other writ/writs, direction/directions to the respondents authorities to grant the relief/reliefs to the petitioner for which he is found to entitled.”

3. Considering the facts of the case and the materials available on record, and in view of the settled legal position that a writ of *Habeas Corpus* is an extraordinary and discretionary remedy which may not be exercised where an effective statutory remedy is available, reliance can be placed upon ***Tejaswini Gaud v. Shekhar Jagdish Prasad Tewari, (2019) 7 SCC 42***, wherein the Hon'ble Supreme Court has in para 19 observed the following:

"19. Habeas corpus is a prerogative writ which is an extraordinary remedy and the writ is issued where in the circumstances of the particular case,



ordinary remedy provided by the law is either not available or is ineffective, otherwise a writ will not be issued....”

4. Accordingly, the petitioner is granted liberty to avail the appropriate/alternate statutory remedy by filing an application under Section 101 of the Bharatiya Nagarik Suraksha Sanhita, 2023, which reads as follows:-

"101. Power to compel restoration of abducted females - Upon complaint made on oath of the abduction or unlawful detention of a woman, or a female child for any unlawful purpose, a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class may make an order for the immediate restoration of such woman to her liberty, or of such female child to her parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.”

5. With the aforesaid liberty, the present writ petition stands disposed of.

6. It is clarified that this Court has not expressed any opinion on the merits of this case.

7. Pending application(s), if any, shall also stand disposed of.

8. It is further expected that the concerned authorities shall pursue the matter in accordance with Section 101 of the



BNSS, 2023 and make all possible efforts to ensure the recovery of the minor child at the earliest.

(Sudhir Singh, J)

(Shailendra Singh, J)

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