

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1140 of 2025

Arising Out of PS. Case No.-826 Year-2023 Thana- SITAMARHI District- Sitamarhi

Garbhu Sah S/O Ramanand Sah Resident of Village- Jafarpur, Ward No. 12,
PS- Belsand, Distt-Sitamarhi

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Govt. of Bihar, Patna. Bihar
2. The Union of India through the Secretary, Department of Narcotic Drugs Psychotropic Substance New Delhi
3. The Secretary, Bihar State Narcotic Drugs Control, Bihar, Patna. Bihar
4. 4. The Inspector General of Police, Bihar, Patna. Bihar
5. The District Magistrate, Sitamarhi. Bihar
6. The Superintendent of Police, Sitamarhi. Bihar
7. The Deputy Superintendent of Police, Sitamarhi. Bihar
8. The Officer-in-Charge, Sitamarhi Town Police Station, District Sitamarhi Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Subodh Kumar, Advocate
For the State	:	Mr. Iqbal Asif Niazi, AC to GP-5
For UOI	:	Dr. Anjani Prasad Singh, CGC

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT

Date : 05-02-2026

Heard learned counsel for the parties and I intend to
dispose of the petition at this stage.

2. No counter affidavit has been filed on behalf of
State-respondents or the Union of India.

3. The petitioner has approached this Court seeking
following relief(s):-



"(i) For issuance of an appropriate writ in the nature of mandamus commanding and directing the respondent authorities to release the car vehicle bearing Registration No. BR06DF4017, Engine No. B4DA424EOL0222 which has been seized in connection with Sitamarhi Town P.S. Case No. 826/2023 registered under sections 399, 402, 414 of the Indian Penal Code read with Sections 25(1-b)A, 26 and 35 of the Arms Act read with Sections 8/20(b)(ii)(c)/22 of the N.D.P.S. Act in favour of the petitioner who is owner of the vehicle.

(ii) And for any other reliefs for which this Hon'ble Court may deem fit and proper."

4. Learned counsels appearing on behalf of Union of India and the other State-respondents submit that the present petition is not maintainable as the petitioner has not approached the learned trial court under Section 451 and 457 of the Code of Criminal Procedure and straightway come before this Court.

5. On specific query as to whether any confiscation proceeding has been started, learned counsel for the State-respondents submits that he has no instruction in this regard. However, learned counsel for the petitioner submits that no confiscation proceeding has been started till date. Learned



counsel further submits that as there is provision for confiscation under NDPS Act, and the confiscation proceeding has not been started till date, the petitioner was compelled to come before this Court under writ jurisdiction.

6. Since the matter concerns with the release of the vehicle and Hon'ble Supreme Court in the case of ***Sunderbhai Ambalal Desai vs. State of Gujrat***, in ***(2002) 10 SCC 283*** has held 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.”

7. Considering the fact that if the seized vehicle is allowed to remain in judicial custody, it will be wasted everyday causing loss of national property. Therefore, without going into the merits of the case, if the confiscation proceeding has not been started, the car of the petitioner bearing Registration No. BR06DF4017 seized in connection with Sitamarhi Town P.S. Case No. 826 of 2023 is directed to be released on receipt/production of the copy of this order with the following conditions:-

(i) The petitioner shall furnish all the necessary papers /documents of ownership and security bond/indemnity bond (not bank guarantee) equal to Insured Declared Value (IDV) of the vehicle in question as on date to the satisfaction of the concerned/competent authority.

(ii) The petitioner shall undertake, in writing, that the vehicle, in question, shall neither be alienated nor be transferred/sold in favour of



any third party during the pendency of the proceeding and that the vehicle in question, shall be produced as and when called upon or required in the proceeding or otherwise.

(iii) To the satisfaction and any other condition to be imposed by the learned trial court.

8. Accordingly, the present petition stands allowed.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.02.2026
Transmission Date	06.02.2026

