

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1174 of 2026

Arising Out of PS. Case No.-45 Year-2026 Thana- VIGILANCE District- Patna

Manjoo Devi W/o Lal Babu Rajak Resident of Sipahi Tola Baxa Ghat Road,
Gali No. 3, P.S- K.Hat, District- Purnea. Bihar 854301

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Deptt. of Home, Govt. of Bihar, Patna, Bihar.
2. The Directorate General of Police, Govt. of Bihar, Patna, Bihar.
3. The Vigilance Deptt., Patna, Bihar.
4. Additional Chief Secretary, Vigilance Department.
5. D.G. Vigilance Investigation Bureau
6. Deputy Superintendent of Police cum Investigator, Vigilance Investigation Bureau
7. Superintendent Special Central Jail, Bhagalpur, Bihar.
8. The SHO, Sadar P.S. Purnea, Bihar

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Sujit Kumar, Advocate
For the State	:	Mr. S.D. Sanjay, A.G. Ms. Priya Gupta, AC to AG Mr. Lokesh Kumar, Advocate
For the Vigilance	:	Mr. Anil Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE KUMAR MANISH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

4 01-07-2026 Heard learned counsel for the petitioner, learned Advocate General for the State and Mr. Anil Singh, learned counsel for the Vigilance Investigation Bureau.

2. This writ application seems to have been preferred for issuance of a Writ in the nature of Habeas Corpus. In paragraph '1' of the writ application, this Court finds the



following statements:-

“1. That this criminal writ application is being filed for the issuance of writ of habeas corpus, directions especially against respondent 3 the Vigilance Department, Patna Bihar and respondent 5 D.G. Vigilance Investigation Bureau for the illegal detention of the petitioner's husband in Special Central Jail, Bhagalpur. The petitioner's husband has been arrested in connection with the Vigilance P.S. Patna FIR No. 45/2026 in a case instituted under section 7(a) of the Prevention of Corruption Act 1988. The arrest of the petitioner's husband is violative of article 22(1) of the Constitution of India for the failure to inform the grounds of arrest in writing as soon as may be and the right to consult an advocate of his choice. The grounds of arrest in writing were handed over to the petitioner's husband after nearly eight hours of the arrest and that too after a continuous insistence by the family members of the petitioner's husband. The petitioner's husband was also not produced before the nearest magistrate within 24 hours defeating the constitutional mandate under Article 22(2) of the Constitution of India. Furthermore, the effective production of the petitioner's husband happened before the office clerk where the entire offense, pre-trap and post trap memorandum was read by the trap laying officer. The magistrate (Additional District and Sessions Judge II cum Special Judge Vigilance) has not ascertained if the arrest of the petitioner's husband is in compliance with article 22 of the Constitution of India. Above all, the magistrate



(Additional District and Sessions Judge II cum Special Judge Vigilance) has illegally authorized the office clerk to sign on the custody application and grant custody. No reasons have been recorded for the grant of custody ostensibly because the entire production happened before the office clerk.”

3. In the prayer portion of the writ application, the following relief has been prayed for:-

“It is, therefore, prayed that this Hon’ble Court may graciously be pleased to issue a writ of habeas corpus or any other relief(s) which the Hon’ble Court deems fit to release the petitioner’s husband forthwith from illegal detention.”

4. It appears from the narration of facts that pursuant to a complaint made by one Suraj Sahni at the Vigilance Investigation Bureau, a first information report giving rise to FIR No. 45/2026 dated 16.04.2026 was registered. Allegation against the petitioner’s husband is that he had demanded a sum of Rs.50,000/- for getting a work done regarding the land of the complainant which is situated in Circle- Purnia East, Mauja- Hasda, Khata No. 232, Khesra No. 770. On receipt of the complaint, the Vigilance Investigation Bureau decided to arrange a pre-trap procedure, a Constable was designated to be



the trap/shadow witness to verify whether the demand was made by the petitioner's husband. On receipt of information, the complainant was fitted with an audio recorder to record the conversation between the complainant and the petitioner's husband. A trap was led down in the premises of the Circle Office, Purnia, East. It is stated that the petitioner's husband directed the complainant to give the money to another co-accused who worked as a private worker in the Circle Office. In the post-trap memorandum, the tainted money has been recovered from the purse of the co-accused.

5. The petitioner submits that the judicial custody of the petitioner's husband was wholly illegal as according to him, the custody application of the petitioner's husband had been signed by the Office Clerk, illegally authorized by the Magistrate (Additional District and Sessions Judge-II-cum-Special Judge, Vigilance). It is submitted that this petition was raised during the bail hearing of the petitioner's husband but this issue was not taken up for consideration.

6. Learned counsel for the petitioner submits that the Magistrate who authorized the judicial custody of the husband of the petitioner failed to record reasons for grant of judicial custody. Thus, it was not effective production before the



Magistrate. Violation of the judgment of the Hon'ble Supreme Court in case of **Arnesh Kumar Vs. State of Bihar and Another** reported in **(2014) 8 SCC 273** has been alleged.

7. Learned counsel for the petitioner submits that no doubt, the petitioner's husband has already been released by virtue of bail granted to him by a court of competent jurisdiction but this Court is required to adjudicate at this stage the contention of the petitioner that the arrest of her husband was illegal.

8. A counter affidavit has been filed on behalf of the Vigilance Investigation Bureau which has been sworn by the Inspector of Police-cum-Investigator. It is stated in the counter affidavit that the FIR was registered on the basis of a verification report and the complaint itself against Sri Lal Babu Rajak then posted at Circle Office, Purnea East Circle, District-Purnea under Section 7(a) of the Prevention of Corruption Act, 1988 (as amended up to date). The facts leading to the trap have been stated in the counter affidavit. It is stated that on the direction of the accused Lal Babu Rajak, the co-accused Smt. Rumi Kundu (personal assistant of the accused) accepted the bribe money from Smt. Lalita Devi, wife of the complainant who was also present at the spot. The accused persons were



formally arrested at 20:30 Hours on 17.04.2026. All the procedures of search and seizure were video-graphed. Thereafter, the post-trap memorandum was drawn up which was signed by the independent witnesses and the complainant. A copy of the post-trap memorandum was provided to each of the accused persons at Circuit House, Purnia and information was given to their relatives via phone and information was also given to the local police station.

9. It is further stated that in course of investigation, after seeking permission from the learned Special Court (Vigilance), Bhagalpur, the experts of Vigilance Investigation Bureau, Patna went to Central Jail, Bhagalpur to take voice sample of the accused Lal Babu Rajak in order to match his voice with the voice captured in recorded conversation, but the accused deliberately refused in writing to give his voice sample. Prosecution sanction against the accused has also been accorded and a chargesheet has been filed against the accused Lal Babu Rajak and the co-accused Smt. Rumi Kundu.

10. Learned counsel for the Vigilance Investigation Bureau has further submitted that the husband of the petitioner has been granted bail by this Court on 23rd June, 2026 in Criminal Miscellaneous No. 39855 of 2026. The fact that the



husband of the petitioner has already been released on bail has been admitted by learned counsel for the petitioner.

11. The fact that the husband of the petitioner was arrested by police after verification of the complaint followed by the trap and then he was produced before the learned Special Court has not been denied. The contention of learned counsel for the petitioner is that an unauthorized Clerk had authorized the detention of the husband of the petitioner but on perusal of Annexure 'P/1' to the writ application, we find that the husband of the petitioner was produced before the learned Special Judge with a number of documents which are enlisted from Serial Nos. 1 to 11 in the forwarding letter issued under signature of the Deputy Superintendent of Police-cum-Investigating Officer, Vigilance Investigation Bureau, Patna. In the margin portion of the said forwarding letter, the learned Special Judge seems to have endorsed 'Permitted' after recording 'Seen'. The ordersheet of the court of that day has not been produced before this Court but this much is evident on perusal of Annexure 'P/1' that the detention has not been authorized by any illegal clerk as claimed by the petitioner. The documents produced before the learned Special Judge includes the verification report and the audio recordings etc. There is no contest by the petitioner that



these documents which are shown in the forwarding letter form part of the records placed before the learned Special Judge for purpose of the judicial custody of the husband of the petitioner. In such circumstance, it cannot be said that the judicial custody of the husband of the petitioner was authorized by an illegal person. The submission is liable to be rejected.

12. It is also a matter of record that the order remanding the husband of the petitioner to judicial custody has not been challenged by the petitioner or her husband.

13. In the case of **Shikha Kumari Vs. The State of Bihar and Others** reported in **2020 SCC OnLine Pat 4605**an Hon'ble Full Bench of this Court had occasion to consider as to whether an order of remand may be challenged by way of a writ of Habeas Corpus. The Hon'ble Full Bench opined in its judgment as under:-

“68. We, accordingly, sum up our conclusions in respect of the first three issues for determination as follows:—

Question No. 1 : “Whether, in a petition for issuance of writ of *habeas corpus*, an order passed by a Magistrate could be assailed and set-aside?”

Answer : Our irresistible conclusion in view of the ratio laid down by the Supreme Court in the aforementioned cases is that a writ of *habeas corpus* would not be maintainable, if the detention in custody is as per judicial orders passed by a



Judicial Magistrate or a court of competent jurisdiction. Consequently an order of remand passed by a Judicial Magistrate having competent jurisdiction cannot be assailed or set aside in a writ of *habeas corpus*.

Question No. 2 : “Whether an order of remand passed by a Judicial Magistrate could be reviewed in a petition seeking the writ of *habeas corpus*, holding such order of remand to be an illegal detention?”

Answer : An illegal or irregular exercise of jurisdiction by a Magistrate passing an order of remand can be cured by way of challenging the legality, validity and correctness of the order by filing appropriate proceedings before the competent revisional or appellate court under the statutory provisions of law. Such an order of remand passed by a Judicial Magistrate of competent jurisdiction cannot be reviewed in a petition seeking the writ of *habeas corpus*.

Question No. 3 : “Whether an improper order could be termed/viewed as an illegal detention?”

Answer : In view of the clear, unambiguous and consistent view of the Supreme Court in the aforesaid cases, we unhesitatingly conclude and hold that an illegal order of judicial remand cannot be termed/viewed as an illegal detention.”

14. In the case of Sachidanand Sah @ Sachchidanand Sah Vs. The State of Bihar and Others reported in **2022 (1) PLJR 78**, this Court was dealing with an application seeking writ in the nature of Writ of Habeas Corpus.



This Court having considered the scope and ambit of a writ in the nature of a Writ of Habeas Corpus has recorded as under:-

“20. In a criminal investigation, what action should have been taken by the police cannot be a matter of *habeas corpus* because it is not the case of the petitioner that his daughter has wrongfully been confined by police. Moreover, it is a settled position in law that investigation of a cognizable case is the sole domain of the police. At this stage, the Court has no role to play.

21. In the instant case, the writ of *habeas corpus* cannot be issued because the writ of *habeas corpus* is *festinum remedium* and the power can only be exercised in a clear case.”

15. Having regard to the entire facts and circumstances of the case and the fact that the husband of the petitioner has already been released on bail, this Court finds no reason to entertain the present writ petition. It is dismissed accordingly.

16. Before this Court parts with the judgment, the Court is constrained to record that the young lawyer for the petitioner kept on arguing and arguing the matter saying that the law is settled and there are several judgments of the Court. The lawyer did not bring a single judgment in the Court room, he did not give any list of books or list of judgments to the Bench and



even in presence of the learned Advocate General and learned counsel for the Vigilance Investigation Bureau, he was unable to give the official citation of one judgment, he was not even carrying two copies of the judgment which he was citing, perhaps from an unofficial report.

17. We have tried to impress upon the learned counsel to learn the profession with more sincerity and in future, whenever he wants to rely upon any judgment of any Court of Law, he should not only make available list of books in advance to the Bench but should also be prepared with the books in hand or in soft copies, if he wants to share the same on the screen but in case, he wants to rely upon any unofficial report, it is expected that he should carry at least two copies of the judgment and provide the same to the Judges. In fact, this practice is required to be followed at the Bar. We record it for the future purposes.

18. The writ application is dismissed.

(Rajeev Ranjan Prasad, J)

(Kumar Manish, J)

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