IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1926 of 2025

CNR No. BRHC010705302025

Arising Out of PS. Case No.-5 Year-2025 Thana- VIGILANCE District- Patna

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Pawan Kumar S/O Late Shailender Kumar Singh R/O House No. 02, Shanti Kunj, S K Vihar, P.S- Beur, Dist- Patna, Bihar.

... ... Petitioner/s

Versus

1. The State of Bihar, through Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna. Bihar
2. The Principal Secretary, Home, Government of Bihar, Old Secretariat, Patna. Bihar
3. The Director General of Police, Bihar, Old Secretariat, Patna. Bihar
4. The Superintendent of Police, Special Vigilance Unit, Bihar, Patna. Bihar
5. The Deputy Superintendent of Police, Special Vigilance Unit, Bihar, Patna. Bihar
6. The Directorate of Enforcement, through the Director, Pravartan Bhawan, APJ Abdul Kalam Road New Delhi, 110011.
7. The Joint Director, Directorate of Enforcement, Patna Zonal Office, First Floor, Chandpura Place Bank Road, West Gandhi Maidan, Patna.

... ... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Suraj Samdarshi, Advocate Mr.Avinash Shekhar, Advocate Ms. Simran Kumari, Advocate Ms. Abhilasha Jha, Advocate
For the State	:	Mr.Abhinav Mishra, GA-6 Ms. Archisha Singh, AC to GA-6 Mr. Hardik Dimania, Advocate
For the ED	:	Mr. Zohaib Hossain, Sr. Advocate Mr. Prabaht Kumar Singh, Retainer counsel, ED Mr. Pranjal Tripathi, Advocate
For SVU	:	Mr. Arvind Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

Date : 06-11-2026

Heard learned counsel for the parties.

02. The present petition has been filed seeking

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following reliefs:-

> *"i) To issue an appropriate writ, order or direction in the nature of certiorari for quashing Special Vigilance Unit P.S. Case No. 05/2025 dated 30.04.2025 registered under section 7(A), 8, 9, 10 and 12 of the Prevention of Corruption Act, 1988 (as amended 2018) and section 3(2), 6(2) and 15 of the Official Secrets Act, 1923 and section 61, 318(4), 338 and 340(2) of the Bharatiya Nyaya Sanhita, 2023 on the ground that for the same set of allegations earlier Special Vigilance Unit had registered Special Vigilance Unit P.S. Case No. 05/2024 dated 14.09.2024.*
>
> *ii) To issue further appropriate writ, order or direction in the nature of mandamus commanding the Respondents not to take any coercive steps against the Petitioner in connection with Special Vigilance Unit P.S. Case No. 05/2025 dated 30.04.2025 during pendency of this case.*
>
> *iii) To grant/award any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case."*

03. Thereafter, the petitioner has filed an interlocutory application bearing I.A. No. 01/2026 seeking following relief:

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> *"(iv) To issue an appropriate writ, order or direction in the nature of mandamus commanding the Respondents not to take any coercive steps against the Petitioner pursuant to the summons being issued to the petitioner under Section 179 Bharatiya Nagarik Suraksha Sanhita, 2023, in connection Special Vigilance Unit P.S. Case No. 05/2025 dated 30.04.2025, subject to the petitioner co-operating with the investigation."*

04. Further, the petitioner has filed another Interlocutory Application bearing I.A. No. 02/2026 seeking following relief(s):

> *"(vi) To issue an appropriate writ, order or direction in the nature of certiorari for quashing the order dated 13.07.2024 passed by Learned Special Judge, Vigilance, Patna, whereby an whereunder the Learned Special Judge, Vigilance, Patna has taken cognizance of offences under Section 7A, 8, 9, 10 and 12 of the Prevention of Corruption Act 1988, read with Section 3(2), 6(2) and 15 of the Official Secrets Act 1923 and Section 61, 318(4), 338, 340(2) of the BNS, on wholly erroneous grounds by completely overlooking the relevant and vital material available on record and also by ignoring the facts and circumstances of the case"*

05. When confronted with the query regarding the

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maintainability of the present writ petition, learned counsel for the petitioner submits that, since the instant writ petition has been preferred under Articles 226 and 227 of the Constitution of India, this Court has jurisdiction to entertain the same for the purpose of quashing Special Vigilance Unit P.S. Case No. 05/2025 dated 30.04.2025 registered under section 7(A), 8, 9, 10 and 12 of the Prevention of Corruption Act, 1988 (as amended 2018) and section 3(2), 6(2) and 15 of the Official Secrets Act, 1923 and section 61, 318(4), 338 and 340(2) of the Bharatiya Nyaya Sanhita, 2023 as well as for quashing the order dated 13.07.2024 passed by Learned Special Judge, Vigilance, Patna, whereby an whereunder the Learned Special Judge, Vigilance, Patna has taken cognizance of offences under Section 7A, 8, 9, 10 and 12 of the Prevention of Corruption Act 1988, read with Section 3(2), 6(2) and 15 of the Official Secrets Act 1923 and Section 61, 318(4), 338, 340(2) of the BNS.

06. In support of his submissions, learned counsel for the petitioner places reliance upon the judgments rendered by the Hon'ble Supreme Court in ***Neeta Singh & Ors. v. The State of Uttar Pradesh & Ors.,*** *reported in* ***2024 SCC OnLine SC 5761, and Pradnya Pranjal Kulkarni v. State of Maharashtra & Anr.,*** *reported in* ***2025 SCC OnLine SC 1948***.

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Learned counsel submits that, in ***Neeta Singh (supra)***, the writ petition was dismissed as having been rendered infructuous upon the order taking cognizance having been passed, particularly in view of the fact that the said writ petition had been instituted exclusively under Article 226 of the Constitution of India. He further submits that, in ***Pradnya Pranjal Kulkarni (supra)***, the petition before the Hon'ble Bombay High Court had been preferred under Article 226 of the Constitution of India read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023. Learned counsel thus submits that it is in this context, that the Hon'ble Supreme Court clarified the factual distinction between the petition instituted before the Hon'ble Allahabad High Court in ***Neeta Singh (supra)*** and that instituted before the Hon'ble Bombay High Court in ***Pradnya Pranjal Kulkarni (supra)***. Learned counsel for the petitioner therefore, submits that a petition under Article 226 of the Constitution of India remains maintainable for seeking quashing of the FIR until the stage of taking cognizance, and that, upon an order taking cognizance being passed, the jurisdiction of the High Court under Section 528 of the BNSS, 2023, as well as under Article 227 of the Constitution of India, continues to remain available.

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07. Learned counsel for the petitioner further submits that, under the Subject Code Classification of this Court, Group 54 pertains to Criminal Writ Jurisdiction Cases and is further classified into sixteen distinct subject categories, all of which are assigned to a Single Judge. He points out that Subject No. 4 relates to matters concerning quashing of FIR/charge-sheet, whereas Subject No. 10 specifically pertains to matters arising out of judicial orders. He further contends that, as per the constitution of Benches of this Court, all matters falling under the various subject categories of Group 54 are assigned to the same Bench.

08. Learned counsel thus concludes by submitting that a writ petition expressly invoking both Articles 226 and 227 of the Constitution of India cannot be rendered infructuous merely by placing reliance upon the decision in ***Neeta Singh (supra)*** and the maintainability of such petition is required to be examined in the nature of jurisdiction invoked, the roster competence of the Bench and the reliefs sought therein. Learned counsel, therefore, submits that a conjoint reading of the decisions rendered in ***Neeta Singh (supra)*** and ***Pradnya Pranjal Kulkarni (supra)***, together with the Subject Code Classification and the constitution of Benches of the this Court,

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makes it evident that an order taking cognizance is amenable to challenge by way of a Criminal Writ Petition invoking the jurisdiction of the High Court under Articles 226 and 227 of the Constitution of India.

09. I find the submissions advanced by learned counsel for the petitioner to be fallacious. Though learned counsel has rightly pointed out the factual distinctions between the decisions rendered in ***Neeta Singh (supra) and Pradnya Pranjal Kulkarni (supra)***, he has failed to appreciate a material aspect of the latter decision. In ***Pradnya Pranjal Kulkarni (supra)***, the petition was instituted not merely under Article 226 of the Constitution of India, but also by invoking Section 528 of the BNSS, 2023. It was in this backdrop that the Hon'ble Supreme Court observed that, since the same Bench was vested with the roster jurisdiction to entertain matters both under Article 226 of the Constitution of India and Section 528 of the BNSS, 2023, the Division Bench of the Hon'ble Bombay High Court could have entertained the prayer for quashing of the FIR, charge-sheet as well as the order taking cognizance.

10. So far as filing of the writ petition under Article 227 of the Constitution of India is concerned, the Hon'ble Supreme Court in the case of ***Radhey Shyam & Anr. v. Chhabi***

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Nath & Ors., reported in ***(2015) 5 SCC 423*** has held that jurisdiction under Article 227 of the Constitution of India is distinct from writ jurisdiction under Article 226 of the Constitution of India. The Hon'ble Supreme Court has further held in the same case that in some High Courts there is tendency of entertaining petition under Article 227 of the Constitution of India by terming them as writ petition. The Hon'ble Supreme Court in the case of ***Shalini Shyam Shetty Vs.Rajendra Shankar Patil,*** *reported in* ***(2010)8 SCC 329*** has also made it clear that under Article 227 of the Constitution of India no writ could be entertained. In conformity with these judicial pronouncements, the Patna High Court Rules was amended on 14.03.2016 and Part A, Chapter XII, Sub Rule (v) of Rule 3 of Patna High Court Rules was incorporated which provides as under:

> *"(v) Petitioner under Article-227 of the Constitution of India in respect of any order or any proceeding before any Criminal Court would be filed in Criminal Miscellaneous Jurisdiction."*

Therefore, under Patna High Court Rules a petition under Article 227 of the Constitution of India needs to be filed under Criminal Miscellaneous jurisdiction. It is also pertinent to note here that the roster of Article 227 of the Constitution of India has not been assigned to this Court.

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11. So far as the further contention advanced by learned counsel for the petitioner, with regard to the Subject Code Classification of this Court, is concerned, it is submitted that Group 54, pertaining to Criminal Writ Jurisdiction Cases, is divided into sixteen distinct subject categories, including Subject No. 10, which specifically relates to Criminal Writ Petitions arising out of judicial orders. However, it appears the said subject classification has not been amended to bring it in conformity with the amendment dated 14.03.2016, whereby Part A, Chapter XII, Rule 3, Sub-rule (v) of the Patna High Court Rules came into force, though subject of 'Criminal Miscellaneous under Article 227' has been put under Group 50 in the Constitution of Benches. The aforesaid rule specifically stipulates that a petition invoking the jurisdiction of this Court under Article 227 of the Constitution of India, in criminal matters, is required to be instituted as a Criminal Miscellaneous Jurisdiction. Therefore, even insistence of the learned counsel for the petitioner on this aspect is misplaced. In this regard, this Court would be failing in its duty if it were to disregard the nomenclature of ‘Criminal Miscellaneous Jurisdiction’ prescribed under the aforesaid Rules. In ***Neeta Singh*** (Supra) the Hon’ble Supreme Court in paragraph 15 has held as under:-

“15. In view of the decision in Prakash

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Chand (supra), we hold that nomenclature of a petition read with the substance thereof does matter. Much depends on what the subject matter of the petition is and who is entrusted to hear and decide it. A Judge of a high court having been assigned petitions under Article 226 for hearing and decision by its Chief Justice cannot, if he (the Judge) finds that the petition filed under Article 226 should have ideally been filed under Article 227, treat the petition as one under Article 227 and proceed to hear and decide it, unless the Chief Justice has also assigned to such Judge petitions under Article 227 of the Constitution for hearing and decision. If not so assigned, the learned Judge may, in his discretion, direct the petition to be treated as one under Article 227 for being placed before the learned Judge having assignment. This is mandatory and, therefore, one finds the caution sounded by this Court in the opening sentence of paragraph 26 of Pepsi Foods (supra) to be of extreme significance."

12. In light of the discussions made herein above as well as the judgments of the Hon'ble Supreme Court, after passing of cognizance order dated 13.07.2026, the present writ petition has not remained maintainable and hence the same is dismissed.

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13. All pending interlocutory applications are disposed of.

14. In the light of discussion hereinbefore, office is directed to take necessary steps for amendment in the Subject Code Classification of the Court to bring it in conformity with the Patna High Court Rules.

(Arun Kumar Jha, J)

DKS/-

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CAV DATE	N/A
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