

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.3348 of 2025

Arising Out of PS. Case No.- Year-0 Thana- District- Madhubani

Surendra Devang Paswan @ Surendra Paswan Bindeshwar Paswan, S/o- Late Bindeshwar Paswan, Resident of Village- Salempur, P.S.- Bisfi, District- Madhubani, at present G-1, Vrindavan Seva Society, Kanaya Pada, Arun Kumar Vidya Marg, Mahraja Tower, Gokhul Dham, Goregaon East, P.S. District- Goregaon East, Mumbai.

... .. Petitioner

Versus

1. The State of Bihar through the Principal Secretary, Home Department, Govt of Bihar, Patna
2. The Superintendent of Police, District- Madhubani
3. The Station House Officer of Police Station- Bisfi, District- Madhubani
4. Ram Sagar Paswan S/o- Ramhit Paswan, Resident of Village- Salempur, P.S. -Bisfi, District- Madhubani.
5. Babita Kumari, W/o- Surendra Paswan, S/o- Late Bindeshwar Paswan, Resident of Village- Salempur, P.S. -Bisfi, District- Madhubani.
6. Sushil Kumar (Minor), S/o- Surendra Paswan S/o- Late Bindeshwar Paswan, Resident of Village- Salempur, P.S. -Bisfi, District- Madhubani.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Nishant Choudhary, Advocate Mr. Gopal Krishna Nishant, Advocate Mr. Shubham Kumar, Advocate
For the State	:	Mr. P.N. Sharma, AC to A.G.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

2 05-01-2026 Heard learned counsel for the petitioner and learned
AC to AG for the State of Bihar.

2. This is the second writ application filed by the petitioner seeking a writ in the nature of Writ of Habeas Corpus. In his first writ application being Cr.WJC No. 469 of 2023, the petitioner alleged that his wife Babita Kumari was kidnapped



and she was under illegal detention of one Ram Sagar Paswan. This Court issued notice to them whereupon they appeared. Wife of the petitioner informed this Court that she had left the company of the petitioner voluntarily and is cohabiting with Ram Sagar Paswan out of her free will. Thereafter, the writ application was disposed of as dismissed.

3. In the present writ application, the petitioner is seeking custody of his minor son (Respondent No. 6) who is said to be in unauthorized custody of Ram Sagar Paswan and Babita Kumari.

4. On going through the writ application, it appears that the petitioner has filed an application under the Guardian and Ward Act, 1890 giving rise to Application No. 2/2023 for getting permanent custody of his minor son.

5. Learned counsel for the petitioner submits that till date, the said Babita Kumari who is the wife of the petitioner has not appeared in the court of learned Principal Judge, Family Court, Madhubani. It is submitted that the guardianship case is pending since long and it is not proceeding due to complete non-cooperation on the part of his wife.

6. In these circumstances, it is submitted that this Court may entertain the writ application and pass an appropriate



order for custody of the minor son of the petitioner to his father.

7. On the other hand, learned AC to AG for the State submits that the petitioner has already initiated action by filing an application before the competent court under Section 12 of the Guardian and Ward Act, 1890. In such circumstance, appropriate direction may be given to the learned Principal Judge, Family Court, Madhubani to take appropriate steps to procure the attendance of the parties and decide the guardianship case as early as possible.

8. Having regard to the facts and circumstances of the present case, we are of the considered opinion that the writ application needs to be disposed of at this stage with a direction to the learned Principal Judge, Family Court, Madhubani.

9. Accordingly, we direct the learned Principal Judge, Family Court, Madhubani to take appropriate steps for procuring the appearance of the mother and the minor son of the petitioner in the Guardianship case. Despite appropriate steps taken in this regard, if they do not put their appearance, the learned court may proceed with the matter and decide the same in accordance with law. Since this is a custody matter and a case is pending for over two and half years, it is required to be taken up showing some urgency.



10. We, therefore, direct that shorter dates shall be fixed in the matter and all endeavours be made to decide the matter within a period of six months from the date of communication of a copy of this order.

11. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

(Shailendra Singh, J)

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