IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.2761 of 2025

Arising Out of PS. Case No.-91 Year-2025 Thana- Sarbahada District- Gaya

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Neeraj Kumar @ Neeraj Singh, Son of Rajendra Sisngh, Resident of Village- Dhurva, P.S.- Nagar, Dist- Ranchi (Jharkhand)

... ... Petitioner

Versus

1. The State of Bihar through the Principal Secretary (Home), Police Dept. Bihar, Patna
2. The Director General of Police, Bihar, Patna
3. The Inspector General of Prisons and Correctional Services, Bihar, Patna
4. The Jail Superintendent , Central Jail Dist- Gaya
5. The Deputy Jailor, Central Jail, Dist- Gaya
6. The Senior Superintendent of Police, Dist- Gaya
7. The SHO Sarbahda Police Station, Dist-Saran
8. The District Magistrate, Gaya
9. The Senior Superintendent of Police, Gaya
10. The Officer-in-Charge, Sarbahda P.S., Dist- Gaya

... ... Respondents

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Appearance :
For the Petitioner : Mr. Siddharth Harsh, Advocate
Mr. Jitendra Kumar, Advocate
For the State : Mr. P.N. Sharma, AC to A.G.
Mr. Pranav Kumar, IG Prisons (online/virtual mode)

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SOURENDRA PANDEY

ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 13-11-2025

Heard learned counsel for the petitioner, learned AC to AG for the State as also Mr. Pranav Kumar, I.G. Prisons and Correctional Services, Bihar who is present through online/virtual mode.

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2. This writ application was taken up for consideration on 12.11.2025. Having heard learned counsel for the petitioner and learned AC to AG, this Court passed the following order:-

"**Order Dated 12.11.2025**

This writ application is raising an issue of serious concern for a Constitutional Court. It is well said that a Constitutional Court acts as a guardian to protect the fundamental rights of a citizen when it comes to protect his Right to Life and Liberty. In the present case, the petitioner was confined in the Central Jail at Gaya Jee in connection with Sarbahda P.S. Case No. 91 of 2025 registered on 31.07.2025 for the offences punishable under Section 30(a) and 37 of the Bihar Prohibition and Excise Act, 2016 (hereinafter referred to as the 'Act of 2016'). In the said case, he was granted bail vide order dated 23.09.2025 by the competent Court and the learned Exclusive Special Excise Judge, Court No. 2, Gaya Jee issued a warrant to release him unless he is liable to be detained for some other matter. The warrant of release dated 29.09.2025 was communicated to the Superintendent, Central Jail at Gaya Jee.

2. What happened thereafter are some disturbing features of this case. It appears that prior to receipt of the warrant to release, the Superintendent of Jail, Gaya Jee had received a production warrant from the court of learned Chief Judicial Magistrate, Buxar requiring production of the petitioner in connection with Buxar P.S. Case No. 87 of 2025. The counter affidavit filed on behalf of Respondent Nos. 1, 3, 4 and 5 has been filed enclosing certain documents. Annexure 'R-1/B' is the order requiring production of the petitioner in the court of learned Chief

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Judicial Magistrate, Buxar (Bihar) on 04.09.2025 by 10:00 AM as he was involved in a case of theft punishable under Section 303(2) of the Bhartiya Nyay Sanhita. Despite receipt of the production warrant, the Superintendent of Jail, Gaya Jee did not produce the petitioner in the learned Chief Judicial Magistrate Court at Buxar on 04.09.2025. Annexure 'R-1/C', Annexure 'R-1/D' and Annexure 'R-1/E' have been brought on record with the counter affidavit to show that the Superintendent of Jail, Gaya Jee informed the learned court of Exclusive Special Judge, Excise, 2nd Gaya Jee, the Senior Superintendent of Police, Gaya Jee and the learned Chief Judicial Magistrate, Buxar with regard to the requirement to produce the petitioner in the light of the production warrant. The Superintendent of Jail was looking for adequate force and vehicle with fuel from the Senior Superintendent of Police, Gaya Jee in order to produce the petitioner in Buxar Court. The respondents have not brought on record any other communication by way of response from the office of the Senior Superintendent of Police, Gaya Jee. It is also not clear whether the court at Gaya Jee was moved for seeking an order to take the petitioner to Buxar Court. The fact remains that even after his release order (Annexure 'R-1/F'), the petitioner continued in detention.

3. Attention of this Court has been drawn towards the communication as contained in Letter No. 9322/Jail dated 06.10.2025 written by the Superintendent of Central Jail, Gaya Jee to the Senior Superintendent of Police, Gaya Jee wherein he has clearly recorded that after receipt of the release order from the local court, the petitioner has been released but had been kept confined on the

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strength of a production warrant. It is to be kept in mind that the date fixed in the production warrant was 04.09.2025 which had already expired. This is why it has also been submitted on behalf of the petitioner that in terms of Section 304 read with Section 305 of the Bhartiya Nagrik Suraksha Sanhita, 2023, once the date fixed in the production warrant expired and the order of release had already reached in the hand of the Superintendent of Central Jail, Gaya Jee, he had no option but to release the petitioner. It is pointed out that prior to receipt of the release order, the present authority could have requested the Buxar Court to issue a fresh warrant of production and the petitioner could have been produced on the strength of a fresh warrant of production before receipt of the release order. It is submitted that, in fact, in his communication dated 06.10.2025, the Superintendent, Central Jail made a wrong statement that after receipt of the release order, the petitioner has already been released. His own statement in the said letter that the petitioner has still been kept confined in the jail on the strength of the production warrant demonstrates that the continued detention of the petitioner was not authorized by any competent court of law, thus, his confinement in jail is in breach of the fundamental right of the petitioner. He has been kept in jail for 18 days even after release without there being any order of a competent court.

4. We take note of the submissions of Mr. P.N. Sharma, learned AC to AG that perhaps, this practice is an ongoing practice, though, it has not been placed on affidavit and he has no specific instruction in this regard but what has been gathered from his experience at the Bar as an Officer of the Court

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perhaps, this is the practice which is being followed. Learned AC to AG further submits that *prima-facie,* it cannot be denied that the petitioner was not actually released from jail even after the receipt of the release order. He was produced in Buxar Court only on 17.10.2025. During the intervening period, there was no authorized detention of the petitioner.

5. Having regard to the entire facts and circumstances and the submissions which we have noted hereinabove, this Court has no iota of doubt that in this case, the life and liberty of the petitioner has been curtailed to a great extent by keeping him in confinement for 18 days without any authorized detention order from a competent court of law. This Court is further disturbed from the fact that perhaps the same thing is happening as a matter of practice in the State of Bihar. This is a wider issue. While holding that the action of the State respondents in not releasing the petitioner actually from jail and keeping him confined in jail for 18 days without any authorized detention order is wholly illegal and is to be held as a breach of the fundamental right of the petitioner, we propose to award adequate compensation to the petitioner for his illegal detention and such compensation would be required to be realized from the erring official. It is well-settled in law that if because of misuse of power by an executive/officer acting on behalf of the State, any compensation is required to be allowed to a citizen, such compensation should not go from the public exchequer, rather such money should be realized from the erring official.

6. We would like to hear the Inspector General of Prisons and Correctional Services, Bihar, Patna (Respondent No. 3) and learned AC to AG tomorrow

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on this point. It will be open to the Respondent No. 3 to either appear online or physically in this Court to address.

7. List this case tomorrow i.e. on 13.11.2025 under heading 'For Orders'. "

3. In continuation of our order dated 12.11.2025, we have heard Inspector General of Prisons and Correctional Services, Bihar, learned AC to AG for the State and learned counsel for the petitioner on the point of award of compensation to the petitioner.

4. Learned AC to AG has informed today with reference to Annexure 'R-1/J' enclosed with the counter affidavit that the petitioner was made to appear virtually before the In-charge, Chief Judicial Magistrate, Buxar on 04.10.2025 and he had been remanded to custody until 17.10.2025. Thus, his submission is that, in fact, it is not 18 days confinement without any authorized detention order, the actual unauthorized detention would come down to five days if counted from 29.09.2025 which was the date of the receipt of the release order of the petitioner in Sarbahda P.S. Case No. 91 of 2025.

5. Mr. Pranav Kumar, I.G., Prisons and Correctional Services has submitted that on perusal of the entire records, he has though noticed that the petitioner has been confined in jail even after 29.09.2025 without there being any order of a competent

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court of law, according to him, this has occasioned due to the intervening Durga Puja Holidays.

6. This Court, however, pointed out to him that even during Durga Puja Holidays, an In-charge Court is always available for this purpose and, in fact, the virtual appearance of the petitioner was done on 04.10.2025 which was during the Puja Holidays only, therefore, it cannot be allowed to be contended that the illegal detention of the petitioner from 29.09.2025 until his virtual production on 04.10.2025 was due to any reason beyond the control of the Jail Superintendent, Central Jail, Gaya Jee. The I.G., Prisons and Correctional Services has immediately realised this and has admitted that “Yes, there is an illegal detention for at least five days”. He has, however, tried to impress upon this Court that taking note of the facts of this case, he would take all corrective measures which are required to be taken and such step shall be taken very soon to address this issue.

7. There being an admitted position that it is a case of unauthorized detention of the petitioner from 29.09.2025 until 04.10.2025 and this practice is going on without drawing much attention of the Department, this Court being a Constitutional Court cannot remain a silent spectator. The I.G., Prisons and Correctional Services has informed this Court that he has taken

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action against the Jail Superintendent, Central Jail, Gaya Jee in administrative side and will take it to a logical end, however, keeping in view the admitted facts of the case as we have already held that it is a case of illegal detention, we proceed to award compensation to the petitioner.

8. On the quantum of compensation, we have invited even I.G., Prisons and Correctional Services to say as to what would be a reasonable amount of compensation to the petitioner. He has submitted that a sum of Rs.10,000/- may perhaps be appropriate. Learned AC to AG has submitted that the Court should take a lenient view of the matter and a sum of Rs.10,000/- for each day of detention would be an appropriate amount of compensation.

9. Learned counsel for the petitioner has, however, vehemently submitted that the quantum of compensation to be fixed by this Court should not be an indicative and symbolic one. It is a matter in which admittedly, the liberty of the petitioner has been curtailed without following the established procedure of law, therefore, a clear case of violation of the Constitutional mandate under Article 21 of the Constitution of India has been made out. It is submitted that in such cases, in fact, the Government should have a policy to award *ex-gratia* compensation to an illegal

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detenue and such amount which are required to be paid to a person for his illegal detention be realised from the erring official so that the Public Exchequer which is the Custodian of public money should not be burdened with cost and compensation. He has relied upon a judgment of a learned Writ Court in case of **K.K. Pathak @ Keshav Kumar Pathak Vs. Ravi Shankar Prasad and Others** reported in **2019 (1) PLJR 1051** in which this principle has been discussed. It has also been pointed out that an appeal preferred against this judgment of the learned Writ Court in **SLP (Crl) No. 003566/2019** before the Hon'ble Supreme Court did not succeed and the same was dismissed vide order dated 26.04.2019.

10. Learned counsel for the petitioner has prayed for an adequate compensation which according to him should not be less than Rs.1,00,000/- (Rupees One Lakh) per day. He has relied upon a judgment of the Hon'ble Delhi High Court in the case of **Pankaj Kumar Sharma Vs. Government of NCT of Delhi and Others** reported in **2023 SCC OnLine Del 6215** in which a learned Writ Court of Hon'ble Delhi High Court has been pleased to award a compensation of Rs.50,000/- to the petitioner for his illegal detention for about half an hour. It is submitted that this Court has recently in the case of **Arvind Kumar Gupta Vs. State of Bihar and Others** reported in **2025 (6) BLJ 52** dealt with this aspect of

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the matter, though, in case of illegal arrest resulting in unauthorized detention and has been pleased to award Rs.1,00,000/- to each of the Respondents Nos. 9 and 11 for their unauthorized detention in police custody. Attention of this Court has been drawn towards paragraphs '27', '28' and '29' of the judgment in the case of **Arvind Kumar Gupta (supra)** which we quote hereunder for a ready reference:-

> "**27.** In the case of **Rudal Sah Vs. State of Bihar and Another** reported in **AIR 1983 SC 1086** while dealing with a case of unlawful detention in jail, the Hon'ble Supreme Court has held as under:-
>
> "...In these circumstances, the refusal of this court to pass an order of compensation in favour of the petitioner will be doing mere lipservice to his fundamental right to liberty which the State Government has so grossly violated."
>
> **28.** In the case of **Pankaj Kumar Sharma Vs. Government of NCT of Delhi and Others** reported in **2023 SCC OnLine Del 6215**, a learned Single Judge of the Hon'ble Delhi High Court has reviewed the case laws on the subject and upon finding that the petitioner was made to suffer in the lockup for only half an hour, the learned Single Judge directed for payment of compensation of Rs.50,000/- to the petitioner recoverable from the salaries of Respondent Nos. 4 and 5 who were the erring officials.
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> **29.** Having regard to the well settled law on the subject, in the admitted facts of this case where

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> these police officials have contravened the procedures and thereby caused injustice to Respondent Nos. 9 and 11 by keeping them in police custody without any sanction of law, we are of the considered opinion that Respondent Nos. 9 and 11 both are entitled for a compensation of Rs.1,00,000/- (Rupees One Lakh) each. The State shall be liable to pay Rs.1,00,000/- to each of Respondent Nos. 9 and 11 within a period of 30 days from today and recover the same from Respondent Nos. 7, 8 and 12 who have admitted the violation of the fundamental rights of Respondent Nos. 9 and 11 by not complying with the established procedure of law. It is well-settled that for any misuse of power by an officer of the State, if the State is being saddled with cost or compensation, the same be recovered from the erring officials. Reference in this regard may be made to the judgment of this Court in the case of **K.K. Pathak @ Keshav Kumar Pathak Vs. Ravi Shankar Prasad and Others** reported in **2019 (1) PLJR 1051** which has attained finality as the same has not been interfered with by the Hon'ble Supreme Court in SLP (Crl) No. 003566/2019."

11. Having considered the entire materials and the submissions as recorded hereinabove, we are of the considered opinion that a consolidated amount of Rs.2,00,000/- (Rupees Two Lakhs) would be a reasonable amount which may be awarded to the petitioner by way of compensation for his unauthorized detention by the Jail Superintendent, Central Jail, Gaya Jee.

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12. Since we have come to know that this practice is going on in other jurisdictions of the Jail Superintendents in the State, the I.G., Prisons and Correctional Services is directed to issue appropriate guidelines to all the Jail Superintendents in the State of Bihar requiring them to strictly abide by the Constitutional Mandate and order of the Court without any exception. Such guideline shall be issued within a period of two weeks from today. The Respondent State of Bihar shall pay the compensation amount of Rs.2,00,000/- (Rupees Two Lakhs) to the petitioner within one month from today. Following the settled principle as discussed in the case of **K.K. Pathak (supra)**, we direct that the amount so paid to the petitioner shall be realized from the erring official in accordance with law.

13. This writ application is allowed to the extent indicated hereinabove.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

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