

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.281 of 2025

Arising Out of PS. Case No.-257 Year-2023 Thana- BIHIA District- Bhojpur

Bipin Kumar Sinha, S/O Arun Kumar Sinha, R/O Village- Kharoni, P.S- Bihiya, District- Bhojpur (Ara).

... ... Petitioner/s

Versus

1. The State of Bihar through its Director General of Police, Patna.
2. The Principal Secretary, Home Department Government of Bihar.
3. The Additional Secretary, Home (Police), Crime Department, Government of Bihar, Patna.
4. The Inspector General of Police, Crime Investigation Department, Bihar, Patna.
5. The Senior Superintendent of Police, Ara
6. The Deputy Superintendent of Police Jagdishpur, Bhojpur
7. The S.H.O., Bihiya
8. Dushyant Kumar @ Deepak Lal, S/O Munneshwar Nath R/O Village- Bara Kharaoni, P.S- Bihiya, Distt.- Bhojpur.

... ... Respondent/s

with
Criminal Writ Jurisdiction Case No. 197 of 2025

Arising Out of PS. Case No.-257 Year-2023 Thana- BIHIA District- Bhojpur

Dushyant Kumar @ Deepak Lal, son of Late Bhuwaneshwar Nath, resident of village- Bara Kharauni, PS- Bihiya, District- Bhojpur

... ... Petitioner/s

Versus

1. The Union of India through Secretary Home Ministry of Home Affairs Govt of India New Delhi
2. The Director General of CISF Ministry of Home Affairs Govt of India New Delhi
3. THE D. I. G., C. I. S. F., New Delhi
4. The Dy Commandant CISF New Delhi
5. The State of Bihar through Chief Secretary Govt of Bihar Patna
6. The Principal Secretary Home Govt. of Bihar Patna
7. The DGP Bihar Patna



8. The DIG Sahabad Region Dehri -on- son Rohtas
9. The District Magistrate, Bhojpur
10. The Police Superintendent Bhojpur
11. The SDPO, Jagdishpur Bhojpur Ara
12. The SHO Bihiya Police Station Bhojpur
13. Vipin Kumar Sinha, Son of Arun Kumar Sinha, Resident of Bara Kharauni PS -Bihiya Dist.- Bhojpur. At present C. I. S. F. Unit D. M. R. C. Delhi as Constable GD Force No. 160407666

... ... Respondent/s

Appearance :

(In Criminal Writ Jurisdiction Case No. 281 of 2025)

For the Petitioner/s	:	Mr. Uma Shankar, Advocate
		Mr. Rajesh Kumar, Advocate
		Mr. Sumit Kumar Yadav, Advocate
		Mr. Jitendra Sagar, Advocate
For the State	:	Mr. Subhash Chandra Mishra, SC-16
		Mr. Pramod Kumar Singh, AC to SC-16
For the Respondent 8	:	Kumar Gautam, Advocate
(In Criminal Writ Jurisdiction Case No. 197 of 2025)		
For the Petitioner/s	:	Mr. Kumar Goutam, Advocate
For the UOI	:	Dr. Iti Suman, CGC
For the State	:	Mr. Nagendra Pd. Yadav, SC-23

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT**

Date : 19-09-2025

Cr.W.J.C. No.281 of 2025

Heard learned counsels for the respective parties.

2. The instant writ petition has been filed by the petitioner seeking following reliefs :-

“(i) To quash the Bihiya P.S. Case No. 257/2023 u/s- 302/34 of I.P.C. & 27 of the Arms Act against the petitioner.

(ii) During pendency of this criminal Writ no coercive step would be taken against the Petitioner.

(iii) Any other relief or relief(s) for which



the Petitioner is entitled under the law".

3. Counter affidavits have been filed on behalf of respondent no. 2 as well as respondent no.8.

4. The learned counsel for the petitioner submits that completely perfunctory investigation has been made in this case and though the investigating officer collected the evidence showing the innocence of the petitioner in connection with Bihiya P.S. Case No. 257 of 2023, while submitting the charge sheet, the same material was not taken into consideration. The learned counsel further submits that a Coordinate Bench of this Court in the case of ***Surendra Singh & Ors. vs. State of Bihar (Cr.W.J.C. No. 153 of 2017)*** and analogous cases in its judgment dated 09.09.2022 has issued directions for proper and fair investigating, but those directions were not followed by the investigating officer. The learned counsel further submits that a vexatious prosecution has been initiated against the petitioner and his family members by the informant and his brother, who are notorious criminals and whose name have been registered in criminal register of the district. The learned counsel also refers to an information furnished by the Sub-Divisional Public Grievances Redressal Officer in Complaint Case No. 999940102072409135 dated 02.07.2024 wherein he has



submitted that the informant of Bihiya P.S. Case No. 257/2023 and four other persons have formed a criminal group for the purpose of extortion. The learned counsel further submits that the petitioner was not even present at the place of occurrence, still he has been made in this case. The petitioner is a constable with CISF and was posted in Delhi. Unfortunately, he came to leave to his native place and was supposed to go to his work place on the day when the occurrence took place. But due to a rail accident, his reservation was cancelled and taking advantage of this fact, the informant made him accused. The learned counsel reiterates that it is a completely frivolous prosecution against the petitioner and should not be allowed to proceed.

5. On the other hand, learned counsel appearing on behalf of the State and learned counsel appearing on behalf of the respondent no. 8 vehemently contend that the present writ petition is not maintainable and charge sheet has been submitted against the petitioner showing him to be absconder.

6. It has been submitted on behalf of the respondents that the petitioner was granted leave of 30 days from 04.01.2025 till 03.02.2025 by his employer and the said leave was extended till 28.02.2025, for enabling the petitioner to surrender before the learned court concerned. But the petitioner did not avail this



opportunity though he availed the leave. The learned counsel for the respondents further submits that the case has been found true and at this stage, from the facts of the FIR offence is made out against the petitioner, there is no question of quashing the FIR. It has also been submitted on behalf of the respondents that after filing of the charge sheet against the petitioner, the matter has become infructuous.

7. Having regard to the rival submissions of the parties, it is admitted fact that the charge sheet has been submitted against the petitioner showing him to be absconder. The facts emanating from the record especially the FIR of Bihiya P.S. Case No. 257 of 2023 show the petitioner is named accused for commission of offence under Sections 302/34 IPC and Section 27 of the Arms Act.

8. The Hon'ble Supreme Court in the case of ***State of Haryana and Others Vs. Bhajan Lal and Others, AIR 1992 SC 604***, has enumerated certain guidelines based on certain instances in which the prosecution could be quashed :-

“(1) Where the allegations made in the first information report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused.

(2) Where the allegations in the first information



report and other materials, if any, accompanying the FIR do not disclose a cognizable offence, justifying an investigation by police officers under Section 156 (1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code.

(3) Where the uncontroverted allegations made in the FIR or complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused.

(4) Where, the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code.

(5) Where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused.

(6) Where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party.

(7) Where a criminal proceeding is manifestly attended with mala fide and/or where the



proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

9. Apparently, the case of the petitioner is not covered under any of the guidelines as enumerated by the Supreme Court in ***Bhajanlal's case*** (Supra). The petitioner has failed to bring out cogent material on record to show malafide on part of the informant on that the prosecution has been maliciously instituted.

10. It also appears from the submission made before this Court that the petitioner is more aggrieved by the faulty investigation and non-compliance of the orders of this Court dated 09.09.2022 passed in ***Cr.W.J.C. No. 153 of 2017 (Surendra Singh & Ors. vs. State of Bihar)*** . If this is the grievance of the petitioner, the petitioner is always at liberty to move before the court concerned seeking redressal of his grievance in the light of direction of the Coordinate Bench of this Court in the case of ***Surendra Singh*** (supra) as well as in the light of decision of the Hon'ble Supreme Court in the case of ***Sakiri Vasu vs. State of Uttar Pradesh and Ors., (2008) 2 SCC 409***. The respondent authorities are also reminded of their duty in terms of decision of ***Surendra Singh*** (supra).



11. Therefore, finding no merit in the present writ petition, the same is dismissed.

12. However, it is made clear that it is open for the petitioner to take recourse of law in appropriate proceeding before the appropriate forum for redressal of his grievance.

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13. The learned counsel for the petitioner seeks permission to withdraw this writ petition.

14. Permission is accorded.

15. Accordingly, this writ petition is dismissed as withdrawn.

(Arun Kumar Jha, J)

V.K.Pandey/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	20.09.2025
Transmission Date	20.09.2025

