

Court No. - 2

Case :- HABEAS CORPUS WRIT PETITION No. - 201 of 2023

Petitioner :- Smt. Jaya Thru. Her Husband Jitendra Kumar @ Nanku

Respondent :- State Of U.P. Thru. Addl. Chief Secy. Home Lko. And Others

Counsel for Petitioner :- Bare Lal Bhartiya, Indra Pratap Singh

Counsel for Respondent :- G.A.

Hon'ble Rajan Roy, J.

Hon'ble Syed Qamar Hasan Rizvi, J.

Heard.

This Habeas Corpus petition has been filed in the name of Smt. Jaya through her alleged husband Jitendra Kumar.

The fact is that an FIR was lodged on 07.04.2023 bearing Case Crime No. 0110 of 2023 at Police Station - Mohanganj, District - Amethi by the father of the alleged victim under Section 366 IPC. In the FIR itself the age of the victim was mentioned as 18 years. However, learned A.G.A. informs that subsequently offences under Section 363, 376 IPC and 5/6 POCSO Act, 2012 have been added.

On 20.06.2023, we had passed the following order:-

"Heard Shri Bare lal Bhartiya, learned counsel for the petitioner and Shri Umesh Verma, learned A.G.A. for the State.

The girl at present is lodged in Nari Niketan. From the photocopy of the records placed before us by Shri Umesh Verma, learned A.G.A. appears that her date of birth is 21.06.2005, therefore, today, she has attained the age of majority, as such, let her be produced before this Court on the next date.

List/ put up on 23.06.2023 as fresh."

Today, the alleged victim is present in Court. On being asked, she stated that her name is Jaya. We have already noticed in our earlier order that as on date the petitioner has attained the age of majority. We asked the alleged victim as to where she wants to go whereupon she stated that she wants to go to her in-laws. She also stated that she has married Jitendra Kumar.

In view of the above, without in any manner affecting the investigation pending in respect to the aforesaid FIR, as it is the case of the prosecution that on the date of the incident, the

alleged victim was a minor, so far as, this Habeas Corpus petition is concerned, the same is allowed, as now, the alleged victim is a major and she wants to go to her in-laws house. She is free to go wherever she wants. She is ordered to be released forthwith. Lady Constable, Swati Katiyar, who has brought her before this Court from the Rajkiya Mahila Sharanalay, District - Ayodhya / Faizabad, where she had been lodged, shall communicate this order to the concerned Sharanalay. The concerned Mahila Sharanalay shall make requisite entries in its record regarding the release of Jaya by the Court by this order. The alleged husband of Jaya namely, Jitendra Kumar, is present in the Court and has been identified by Shri Indra Pratap Singh, Advocate, as also, Smt. Jaya, as her husband. It is once again made clear that this order shall not in any manner adversely affect the investigation pending against Jitendra Kumar or any other accused.

The petition is **allowed** in the aforesaid terms.

Shri Arunendra, learned A.G.A. shall communicate this order to the Superintendent, Rajkiya Mahila Sharanalay, District - Ayodhya / Faizabad and to the Investigating Officer concerned.

Photocopies of records pertaining to proof of age of Jaya have been placed by learned A.G.A. which are taken on record.

Order Date :- 23.6.2023
Lokesh Kumar