

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1081 of 2017

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1. Pandu Kumar, son of Jaleshwar Singh, resident of Village Chain, P.S. Jhajha, District- Jamui Petitioner

Versus

1. The State of Bihar
2. The Principal Secretary, Home Department Government of Bihar, Old Secretariat, Patna.
3. The Director General of Police, Bihar, Patna.
4. The Inspector General of Police, Bihar, Patna.
5. The Sr. Superintendent of Police, Patna.
6. The Superintendent of Remand Home (Female Branch), Gayghat, Patna.
null null
7. The Superintendent of Police, Jamui.
8. The Deputy Superintendent of Police, Jamui.
9. The Officer-in-Charge, Police Station, Jhajha.
10. Mr. Nilmani Kumar, the Investigating Officer-cum-Sub Inspector, Police Station, Jhajha, District- Jamui.
11. Kanchan Kumari, Wife of Pandu Kumar resident of Village- Chain, P.S. Jhajha, District- Jamui, present injudicial Custody at Remand Home (Female Section) Gayghat, Patna.
12. Sudhir Singh, Son of Late Nand Kishore Singh, resident of Village-Chain, P.O.- Chain, P.S. Jhajha, District- Jamui Respondents

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Appearance :

For the Petitioner : Mr. Rajesh Kumar Sinha, Adv.
For the Respondents : Mr. Md. Nasrul Huda Khan (Sc1)

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 21-08-2017 Heard the learned counsel for the petitioner as well as the State-respondent.

No one appears on behalf of respondent no. 12 in spite of the notice.

The petitioner has challenged the order, dated 20.01.2017, passed in Jhajha P.S. Case No. 265 of 2016 corresponding to G.R. No. 2200 of 2016 whereby the learned Subdivisional Judicial Magistrate, Jamui, has sent Kanchan Kumari to Remand Home, Female Section, Gaighat, Patna.

Kanchan Kumari is victim of the crime for which Jhajha P.S. Case No. 265 of 2016 was registered under Section



366A/34 of the Indian Penal Code by her father, Sudhir Singh (respondent no. 12).

According to first information report, the petitioner is suspected to have induced the victim, who is a minor girl, to go with him and kidnapped her.

Submission of the learned counsel for the petitioner is that the victim appeared before the learned Court below. Her statement under Section 164 of the Criminal Procedure Code was recorded, wherein she stated that she had voluntarily married with the petitioner and no one had induced her to go against her wishes. In view of the statement of the victim-girl she should have been released and not sent to the Remand Home. He, further, submits that the Medical Officer assessed age of the victim about 18 years on 20.01.2017. In the circumstance, the victim was a major on the date the impugned order was passed.

The impugned order reveals that on the basis of entry of date of birth in the school certificate, the victim was born on 10.03.1999, as such, she was a minor on the date the impugned order was passed.

Submission of the learned counsel is that even if the entry of the date of birth is taken to be correct the victim is major now and there is no further reason to detain her anywhere.

Since, statement of the victim under Section 164 of the Criminal Procedure Code was recorded on her production by the petitioner without giving any opportunity to the victim for cooling down. In the circumstances, voluntariness of the statement under Section 164 of the Criminal Procedure Code may not be accepted as it is.

In the circumstances, this Court is not inclined to



release the victim in favour of the petitioner. However, if the victim approaches the Court below for her release, on her own volition, there is no reason that the Court below would refuse the prayer as she is already a major.

With the aforesaid observations, this writ application stands **disposed off**.

(Birendra Kumar, J)

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