

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No. 1787 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- DARBHANGA

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Madhumala Kumari @ Madhu Mala Kumari, Wife of Sri Ravindra Kumar Yadav,
Daughter of Sri Ram Vinay Lal Dev, Resident of Village - Madhopur, P.S. -
Bahera, District - Darbhanga

.... Petitioner

Versus

1. The State of Bihar through Director General of Police, Bihar, Patna.
2. The Director General of Police, Bihar, Patna.
3. The Superintendent of Police, Darbhanga.
4. The Deputy Superintendent of Police, Benipur, District - Darbhanga.
5. The Officer-in-charge Bahera Police Station, District - Darbhanga.
6. The Superintendent of After Care Home, Gayghat, Patna City, Patna.

.... Respondents

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Appearance :

For the Petitioner : Mr. Manish Kumar No. 13, Advocate
Mr. Rohit Kumar, Advocate
Miss Kanchan Jha, Advocate
For the Respondents : Mr. Sanjay Kumar, A.C. to S.C. VIII

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 14-11-2017

Heard learned counsel for the parties.

2. Father of this petitioner lodged Bahera P.S. Case No. 254 of 2017 under Section 365 and 366A of the Indian Penal Code alleging therein kidnapping of the petitioner by the named person.

3. The petitioner appeared in the case and her statement under Section 164 Cr.P.C. was recorded vide Annexure-2 wherein she stated that she is aged about 18 years and she voluntarily left the house as she has love affairs with accused Ravindra Kumar Yadav and she has already married with Ravindra Kumar Yadav on 17.07.2017.

4. In the Aadhaar card, the date of birth of the petitioner is



recorded as 27.05.1999 and the occurrence, allegedly, took place on 01.07.2017. The petitioner approached the learned court below for her release. The learned court below considered the date of birth of the petitioner recorded in school records as 01.01.2002 and found that the petitioner was a minor. Hence, ordered that considering the security of the petitioner she is fit to be sent to Nari Niketan, Gaighat, Patna (Remand Home).

5. Submission of the learned counsel for the petitioner is that the Medical Board has assessed age of the victim in between 16 to 17 years vide Annexure-6 and considering the chance of errors of assessment in both ways, a Division Bench of this Court, in **Sahebi Khatoon @ Sahebi vs. The State of Bihar & Ors.** (Cr.W.J.C. No. 991 of 2010) disposed of on 23.09.2010, allowed two years in faovur of the petitioner for considering her release. He further submits that the entry in school certificate is not correct which would be evident from the material brought on the record through counter affidavit by respondent nos. 3, 4 and 5.

6. Annexure-A of the counter affidavit would reveal that entry in the school certificate regarding date of birth of the petitioner is 01.01.2002 whereas a different school has recorded the date of birth of the petitioner as 15.12.2002.

7. His submission is that it is common experience that some people get the date of birth of their children recorded in school by showing



lesser age for protecting the future career of the student. If there is no unimpeachable evidence of the school certificate for definite conclusion that the petitioner is a minor, the desire of the petitioner should have been honoured as held by the Division Bench in the aforesaid case of **Sahebi Khatoon** “in such cases, instead of sending such girls to Remand Home or After Care Home, they should be released to go with the people of their choice”.

8. After hearing the parties and considering the material as discussed above, in my view, the petitioner need not be kept in confinement of any kind. Rather she should be allowed to go to any place of her choice. Hence, the respondent-authorities, especially, respondent no. 6, the Superintendent of After Care Home, Gaighat, Patna City, Patna is directed to release the petitioner forthwith from the Remand Home.

9. Let a copy of this order be communicated to the court below to ensure compliance.

10. With the aforesaid observation, this writ application stands allowed.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	AFR
CAV DATE	N.A.
Uploading Date	15.11.2017
Transmission Date	15.11.2017

