

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.186 of 2017

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

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Puja Kumari, Wife of Sri Suraj Paswan, Resident of village- Tekni, Police Station-
Rajoun, District- Banka.

.... Petitioner

Versus

1. The State of Bihar.
2. Director General of Police, Bihar, Patna.
3. Inspector General of Police, Bihar, Patna.
4. Deputy Inspector General of Police, Bhagalpur Range, Bhagalpur.
5. Superintendent of Police, Banka.
6. Deputy Superintendent of Police, Banka.
7. Officer-in-Charge, Rajoun Police Station, District- Banka.
8. Superintendent, Govt. After Care Home (Female) Gaighat, Patna.
9. Makeswar Mandal S/o Prasadi Mandal R/o Vill- Tekni, P.S. Rajoun, District Banka.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Satish Chandra Mishra, Advocate
For the State : Mr. Krishna Chandra, AC to AG
For the respondent no.9 : Mr. Praven Kumar, Advocate

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CORAM: HONOURABLE DR. JUSTICE RAVI RANJAN

and

HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

(Per: HONOURABLE DR. JUSTICE RAVI RANJAN)

Date: 02-05-2017

Heard parties.

The petitioner seeks her release from After Care Home
(Female), Gaighat, Patna.

The father of the petitioner Makeswar Mandal lodged
Rajoun P.S. Case No.64 of 2016 for kidnapping of her minor
daughter, aged about 16 years, by one Suraj Paswan. The petitioner
claims that she appeared before the police on her own and, thereafter,



her statement under Section 164 Cr.P.C. was recorded in which she disclosed her age to be of 18 years. However, vide order dated 21.04.2016, the court below had directed for sending her to Government After Care Home (Female), Gaighat, Patna for the reason that in the FIR, the informant, i.e., father of the petitioner, has disclosed her age to be of 16 years and no medical report was available on that point of time to show that what was the approximate age of the petitioner according to the Medical Board. Now, the petitioner has approached this Court for her release as it is submitted that in the medical report submitted by the Board constituted for the said purpose, appended as Annexure-4, it has clearly opined that the petitioner's age is in between 18-19 years. It is submitted that since the petitioner is major, she cannot be confined against her wishes even by the court even for one day as that would be illegal confinement.

However, this is the fact that the order dated 21.04.2016 was never challenged by the petitioner and in that order, the report of Medical Board was never considered. In such a situation, we are inclined to dispose of this writ application granting liberty to the petitioner to approach the court below itself by filing a petition for a fresh order for her release. In that case, the court concerned would consider every material including the report of the Medical Board for the said purpose and pass a reasoned order expeditiously but not later



than two weeks from the date of filing of such petition.

It is made clear that if it is established that the petitioner is major and she is not an accused, there would be no occasion for confining her in any After Care Home and she would have to be set at free. However, she would also have to cooperate in the proceeding and the trial.

(Dr. Ravi Ranjan, J)

(Vikash Jain, J)

V.K. Pandey/-

AFR/NAFR	N.A.F.R.
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