

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.522 of 2017

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

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1. Nasrin Khatoon D/o Md. Hadish, resident of Village-Lalbandi, P.S. Sonbarsa, Distt.-Sitamarhi, at Present Short Stay House Kailashpuri, Dumra P.S. Dumra Distt.-Sitamarhi,

.... Petitioner/s

Versus

1. The State of Bihar
2. The Director General of Police Bihar, Patna.
3. The Superintendent of Police, Sitamarhi.
4. The Deputy Superintendent of Police, Sitamarhi
5. The Officer Incharge, Sonbarsa Police Station District-Sitamarhi

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Suresh Kumar Ishwar, Advocate
For the Respondent/s : Ms. Divya Verma, AC to AAG-3
For the Intervener : Mr. Shailendra Kumar Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR

ORAL JUDGMENT

Date: 25-08-2017

Heard learned counsel for the parties.

2. Petitioner Nasrin Khatoon is the victim of the crime in relation to Sonbarsa P.S. Case No.13 of 2017 registered under Section 363/366A of the Indian Penal Code. Initially, the complaint case was filed by Rabihun Khatoon, the mother of the victim, which was registered as aforesaid P.S. case under Section 154(3) Cr.P.C.

3. Allegation is that the named accused persons have induced the victim to go with them just to use the victim in flesh



tread. There is reference of other similar criminal cases against the accused persons. When the victim appeared, her statement under Section 164 Cr.P.C. was recorded wherein she disclosed her age as 19 years and the learned Magistrate also assessed her age as 19 years. The victim leveled allegation against the informant of this case that the informant was using her for immoral purposes and earning money. Therefore, she had left the house.

4. On the request of the learned counsel for the respondent the entire order-sheets of the police case before the learned Court-below was called for to verify whether the statement of the petitioner under Section 164 Cr.P.C. was recorded when she was in the clutches of the accused or not. Order dated 19.01.2017 reveals that on the written prayer of the Officer-in-Charge of the police station for recording of the statement of the victim under Section 164 Cr.P.C. her statement was recorded.

5. The present writ application has been filed with prayer to direct the respondents to release the petitioner from the Short Stay House in the district of Sheohar. The prayer is on the ground that she is already a major. The medical report reveals that her age has been assessed in between 17 to 19 years and submission is that in similar circumstances a Division Bench of this Court in **Cr.W.J.C. No.991 of 2010 (Sahebi Khatoon @ Sahebi V. The**



State of Bihar & Ors.) disposed of on 23.09.210, allowed two years in favour of the petitioner for considering her release matter. The petitioner of that case was also a victim of crime.

6. Learned counsel for the respondent opposed the prayer mainly on the ground that in the event of release the victim might be used by the accused persons for immoral purposes as the accused persons have got similar type of antecedent, which is available on the record. Moreover, the statement of the victim under Section 164 Cr.P.C. has been obtained by the accused by putting her in duress.

7. The record does not reveal that the statement of the victim under Section 164 Cr.P.C. was recorded under influence of anyone. Annexure-4, the above referred order of Division Bench of this Court in Cr. W.J.C. No.991 of 2010, reveals that the petitioner of that case was treated as a major, when she was assessed by the Medical Board to be of an age in between 16 to 17 years and the Court observed as follows:

“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. Considering the aforesaid binding precedent, in my view also, there is no reason to detain the petitioner, who is a major, anywhere. She has fundamental right of liberty to go wherever she



wants at her own desire. Therefore, the respondents are directed to release her soon after receipt of a copy of this order to go wherever the petitioner wants.

9. Accordingly, the writ application stands allowed.

(Birendra Kumar, J)

Mkr./-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	29.08.2017
Transmission Date	29.08.2017

