

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.3169 of 2018

Arising Out of PS. Case No.-231 Year-2018 Thana- ATHMALGOLA District- Patna

Shashi Bhushan Kumar, son of Late Rajendar Prasad Singh @ Rajendra Singh, resident of Bhadur Bigha, P.S. Ben, District - Nalanda

... .. Petitioner/s

Versus

1. The State of Bihar through Secretary, Department Of Home (Police) Govt. of Bihar, Patna
2. The Deputy Secretary, Department of Home (police), Govt. of Bihar, Patna
3. The Senior Superintendent of Police, Patna
4. The Superintendent, Balika Greeh Nishant, (Remand Home), Gai Ghat, Patna City.
5. Anjali Kumari, D/o Mantu Singh wife of Gautam Kumar Singh, presently confined at Balika Greeh Nishant Gaighat Patna City since 27.09.2018.
6. Gautam Kumar son of late Kumar Ballabh Sharan Sadhu Singh, resident of village Sarba Bharsara, P.S. Bikram, District Patna
7. The Officers-in-charge, Athamal Gola, Police Station (Barh), Patna
8. I.O. (Sri Ram Balak Prasad) I.O. of the Athamal Gola, P.S. Case No. 231/2018

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar Pathak, Advocate
For the Respondent/s	:	Mr. Prabhu Narayan Sharma, AC to AG

CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

2 14-12-2018 Heard Shri Sunil Kumar Pathak, learned counsel for the applicant and Shri Prabhu Narayan Sharma, A.C. to learned Advocate General.

This is a very strange *habeas corpus* petition, which has been preferred by the applicant claiming himself to be the elder brother-in-law of Respondent no. 6 contending that since



the respondent no. 5 has no appropriate guardian, the applicant is entitled to move this *habeas corpus* petition for her release on the ground that the Respondent no.5 has allegedly entered into a wedlock with the Respondent no.6.

From the record itself, it is apparent that an F.I.R. has been lodged under Sections 363, 366 read with Section 34 of the I.P.C. by the mother of Respondent no. 5 (girl) and it is undisputed that the respondent no.6 has been taken into custody. It is alleged in the FIR that the Respondent no. 6 is already married and has two children. He induced the Respondent no. 5 to elope with him.

In the above background, when the victim has already appeared before the Magistrate and given her statement under Section 164 Cr.P.C., there is no occasion for this Court to entertain the *habeas corpus* petition at the instance of a person, who does not appear to be the lawful guardian of the Respondent no.5 and has disclosed himself to be the elder brother-in-law of Respondent no. 6

The writ petition at the instance of the petitioner therefore, stands rejected.

The Respondent No.5 in case is found by the Court to have attained the age of majority and entitled for release, would



be free to go wherever she chooses as per her own volition.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

PNM/Jagdish

U			
---	--	--	--

