

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1184 of 2019

Arising Out of PS. Case No.-243 Year-2018 Thana- PATNA CITY CHOWK District- Patna

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KHUSHBOO KUMARI D/o Ashok Rai @ Ashok Kumar Yadav Resident of
Village - Kaimosikoh, P.S.- Chowk, Dist.- Patna.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR THROUGH PRINCIPAL SECTT., DEPTT. OF HOME, GOVT. OF BIHAR
2. The Director General of Police, Bihar Patna.
3. The Inspector General of Police, Patna Region, Patna, Bihar
4. The Deputy Inspector General of Police Patna Gegional, Patna, Bihar.
5. The Senior Superintendent of Police Patna Bihar.
6. The Superintendent of Police, East, Patna Bihar
7. The Sub - Divisional Police officer, Patna City Patna, Bihar
8. The Station House Officer of Chowk Police Station, Patna City, Patna.
9. The Investigating Officer of Chowk P.S.- Case No.243/2018 Chowk P.s.- Patna City, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Mouar, Advocate
For the Respondent/s : Mr. P.N. Sharma. AC to AG

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

(Per: HONOURABLE THE CHIEF JUSTICE)

2 17-08-2019 Heard learned counsel for the applicant.

2. The main thrust of the argument is that the detention is unlawful in the background that the petitioner, in fact, has attained the age of majority and, therefore, to allow her to continue in the remand home will be contrary to law.

3. The detenue has in her statement under Section



164 Cr.P.C. indicated her mind to go with her parents, but, unfortunately, from a perusal of the order passed by the courts below it appears that the parents themselves have not offered to take her into custody. In this background, what we find is that the age of the detenue, as reflected in her school certificate is 20th of March, 2004 which was tendered by no one else than by her own father, who is the informant in the criminal case.

4. Learned counsel submits that the informant himself has disclosed the age of the detenue as 17 years at the time of lodging of the F.I.R. and calculating on the strength thereof, the applicant has attained the age of majority. In view of this fact as stated by the father of the detenue herself, it is urged that the same should be taken into consideration and the detenue should be allowed to travel on her own free will and should be released from custody. The courts below have also recorded that she was aged about 17 to 18 years of age as depicted from the certificates issued by the remand home. It is, therefore, submitted that in the said background this should be treated to be a case of unlawful detention.

5. Having considered the submissions raised, there are conflicting indications of the age of the applicant, but the fact remains that her educational certificate indicates that her



date of birth is 20th of March, 2004. This aspect, therefore, has to be determined by a court of competent jurisdiction. The question of release of the applicant would, therefore, be dependent on a correct determination of the age which can be undertaken by the lower court as has been observed by the learned Additional Sessions Judge-6, Patna City in the order dated 12th of April, 2019. We, therefore, do not find this to be a case so as to entertain the writ of habeas corpus without prejudice to the rights of the applicant to seek her remedy before the concerned court and, in the event it is established that she has attained the age of majority, it will be open to the court concerned to pass appropriate orders.

6. The application is consigned.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

K.C.Jha/-

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