

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62239 of 2019

Arising Out of PS. Case No.-95 Year-2019 Thana- MOKAMAH District- Patna

SURAJ KUMAR S/o Preman Saw @ Prem Saw R/o village- Shahri, P.S.-
Barh, District- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Sunil Kumar Karn, Adv

For the Opposite Party/s : Mr.Raj Kishore Singh, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 17-10-2019

Heard learned counsel for the parties.

2. The petitioner has challenged the order dated 16.09.2019 passed by the learned Additional Chief Judicial Magistrate-IV, Barh in a proceeding arising out of Mokama P.S.Case No.95 of 2019 whereby the prayer of the petitioner for release of his legally wedded wife from the Remand Home, Gai Ghat, Patna has been refused.

3. An I.A. No.01 of 2019 has been filed by the victim girl praying therein for her release from the remand home.

4. The FIR relates to kidnapping of the victim girl, who is daughter of the informant. The victim on appearance gave her statement under Section 164 Cr.P.C. stating therein that in school certificate her date of birth is recorded as 15.03.2003. She had love affairs with the petitioner and she had already married



with the petitioner in a temple at Delhi. She expressed her desire to go with the petitioner and not to go with the parents.

5. The learned court below refused the prayer for release of the victim on the ground that she was a minor on the date of order of refusal for release.

6. Learned counsel for the petitioner submits that the petitioner has already been allowed anticipatory bail in the case. Victim has voluntarily married with the petitioner as stated by her in her statement under Section 164 Cr.P.C. The medical report would reveal that she has crossed the age of 18 years. Hence, no purpose would be served by keeping her in a remand home.

7. Since the law is well established that for determination of age, the school certificates are to be preferred against the medical report in view of the provisions of Section 94 of the Juvenile Justice (Care and Protection) Act, 2015 which was also incorporated in Rule 12 of the Juvenile Justice (Care and Protection) Rules, 2007. Hence, the order of the Magistrate cannot be faulted with any infirmity. Therefore, I am not inclined to interfere with the impugned order.

8. However, the victim would be at liberty to make prayer before the Magistrate soon after she attains majority



according to the school certificate and the learned court below shall pass necessary order according to law.

9. It has been informed that the victim is ill in the remand home.

10. The authorities as well as the learned court below shall ensure proper treatment of the victim.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
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