

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.86016 of 2019

Arising Out of PS. Case No.-63 Year-2019 Thana- CHANPATIA District- West Champaran

AWDHESH SINGH Son of Chandrama Singh Resident of Village- Dhadhwa,
P.S.- Lauriya, District- West Champaran.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR Bihar
2. Awdhesh Tiwari Son of Late Bhirgun Tiwari Resident of Village- Patkhauli,
Ward No. 01, P.S.- Chanpatiya, District- West Champaran.
3. Pramod Tiwari Son of Awdhesh Tiwari Resident of Village- Patkhauli, Ward
No. 01, P.S.- Chanpatiya, District- West Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. N.K. Agarwal, Sr. Advocate Mr. Prashant Kumar, Advocate Mr. Akhileshwar Kumar Shrivastva
For the Opposite Party/s	:	Mr. Akshay Lal Pandit, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

16 25-10-2021 Heard Mr. N.K. Agarwal, learned Senior

Advocate, who has been requested by this Court to be

the Amicus, assisted by Mr. Prashant Kumar, learned

Advocate for the petitioner and Mr. Amit Kumar Pandey

for Opposite Parties No. 2 and 3, who are the father and

grand-father respectively of the so called victim girl. The

State is represented by Mr. Akshay Lal Pandit, learned

APP.

This application has been filed against the order

dated 07.11.2019 passed by the learned Additional



District and Sessions Judge 1st cum Special Judge, Bettiah, West Champaran in connection with Chanpatia P.S. Case No. 63 of 2019, whereby the learned Special Court has refused to release the victim from the remand home.

The only reason for rejecting the prayer was the age of the victim. The school transfer certificate of the victim is stated to be 03.01.2004. If this age is accepted to be true, the victim becomes a major on 02.01.2022.

The parties have different stories to narrate before this Court. The victim girl claims to be older than what has been projected in the school transfer certificate at the instance of her father and grand-father. The victim is said to have married Awdhesh Singh/petitioner in Arya Samaj temple, only after disclosing that she had attained the age of majority and was of marriageable age on that date. She has also expressed her desire to go along with her husband and has candidly expressed



her desire not to be asked to go to her father or grand-father.

On an earlier occasion, this attitude of the victim girl was dubbed as a childish aberration by the learned counsel for opposite parties no. 2 and 3.

Mr. Agarwal, learned Senior Advocate has also informed this Court that when the victim girl was recovered, she was subjected to medical examination and the medical board found her age to be between 17 to 19 years. He, therefore, submits that even if the minimum age is taken to be the correct age of the victim, with the passage of time, she has now become a major.

In such an event, coupled with the fact that the victim has expressed her apprehension that she might face reprisal at the hands of her father and grand-father, it would only be desirable to direct for release of the victim girl from remand home where living condition are not up to the standard.



This Court had, on earlier occasion, directed that though the victim girl has married the petitioner but the petitioner would not have any locus to press this petition, as there is a dispute with respect to the age of the victim girl; but considering the other factors, this Court deemed it appropriate to direct for presence of the Warden of Balika Griha, Motihari and the victim girl.

Today, both of them are present.

This Court has interacted with both of them. The Warden, Balika Griha, Motihari has stated that according to the documents of which she is in possession, the victim becomes major on 02.01.2022. On interaction with the victim girl, she confided in the Court that she does not wish to go to her father or grand-father for the reason that she has chosen to marry the petitioner against their wishes and that she apprehends some retaliatory action by them. This Court is also concerned about the fact that the victim girl may not be living under good conditions in the Balika Griha,



Motihari but she has expressed no dissatisfaction regarding her stay there.

Considering the entire circumstances, this Court directs that the Special Court to release the victim girl on 04.01.2022.

For the court below to pass the aforesaid order, the mother of the petitioner/Awdhesh Singh shall file necessary application before the court below along with a copy of this order.

This application stands disposed off with the aforesaid direction.

It is made clear that the victim girl after her release shall not be harassed on any account by any person. In case of any trouble to the victim girl, she would be at liberty to approach this Court for any further direction.

(Ashutosh Kumar, J)

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