

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.68307 of 2021**

Arising Out of PS. Case No.-141 Year-2021 Thana- KATIHAR NAGAR District- Katihar

Mukesh Ray @ Mukesh Mandal, son of Gyani Mandal R/O- Semapur, P.S.-  
Barari, Distt.- Katihar, At present R/O- Buddhuchak, P.S.- Sahayak, Distt.-  
Katihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

**Appearance :**

|                      |   |                                    |
|----------------------|---|------------------------------------|
| For the Petitioner/s | : | Mr. Sanjeev Kumar Singh, Advocate. |
| For the              | : | Mr. Ajit Kumar, A.P.P.             |

**CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH**  
**ORAL ORDER**

6      21-09-2022                      Heard Mr. Vikram Deo Singh, learned Amicus  
Curaie; Mr. Sanjeev Kumar Singh, learned counsel appearing on  
behalf of the petitioner and Mr. Ajit Kumar, learned A.P.P. for  
the State.

2. In compliance of the order dated 29.08.2022, Mr.  
Roshan Kushwaha, District Magistrate, Begusarai; Mr.  
Yogendra Kumar, Superintendent of Police, Begusarai and Mr.  
Jitendra Kumar, Superintendent of Police, Katihar have tendered  
their appearance before this Court in person.

3. This order is in continuation of order dated  
29.08.2022. It was informed by the District Magistrate,  
Begusarai on 29.08.2022 that prima facie it appears that the  
Matron, Balika Grih has fabricated the records relating to the  
victim by referring to the alleged statement of the victim  
recorded on 15.03.2021, which has led this Court to direct the



District Magistrate, Begusarai to hold enquiry taking into consideration the manner and approach which has been shown by the District Child Welfare Committee, Samastipur as well as laches on the part of the District Administration by not registering any F.I.R. or holding enquiry once the victim was found missing and was handed over to the Child Welfare Committee, Samastipur by the G.R.P. on 12.03.2021, to her parents who resides in District Katihar, this Court had directed the District Magistrate, Begusarai and Superintendent of Police, Begusarai, to first sensitize themselves with the provisions of the Juvenile Justice Act and the POCSO Act and take appropriate action on the basis of the records which are maintained at Balika Grih, Begusarai as well as the District Child Welfare Committee, Samastipur. If, prima facie, case is made out against the members of the District Child Welfare Committee, Samastipur and the officials of the Balika Grih, Begusarai and the doctor who had examined the girl at Balika Grih, Begusarai, appropriate action must be taken against them by lodging F.I.R. in accordance with law.

4. Today, the District Magistrate, Begusarai has submitted his report, which forms part of the F.I.R.

5. The Superintendent of Police, Begusarai informs



this Court that on the report submitted by the District Magistrate, Begusarai and on his personal knowledge about the matter in the Court, has taken sincere effort and found, prima facie, the allegation to be against accused persons who for the reasons best known to them in most condemnable manner have confined the victim in their custody for nearly nine months. He further informs that the records show that the girl was found at Samastipur Railway Station by the G.R.P. in the night of 12.03.2021 from where the victim was handed over to the Child Welfare Committee, Samastipur and the same finds reference in the case diary also.

6. At this juncture, it would be apt for this Court to refer Rule 18 of the Juvenile Justice (Care and Protection of Children) Model Rules, 2016, which mandates that after production of the child before the Committee, any child in need of care and protection shall be produced before the Committee during working hours at its place of sitting and beyond working hours before the member as per the roster. The Committee is required to make a report in Form 17 containing the particulars of the child as well as the circumstances in which the child was received or found. Further condition is that it would be relevant in the present case that the Committee after interaction with the



child shall issue direction for placing the child with the parent or guardian or Children's Home where such Home is available in the vicinity of the Committee before which the child is produced and in absence of such Home, to direct the placing of the child in safe custody of a fit person or a fit facility. The Committee is also duty bound to get the immediate medical examination of the child and upload information relating to child on a designated portal. The Committee is also duty bound to make an order in Form 18 for placing the child under care for forwarding person in-charge of an institution and the copy of the order is also be forwarded to the District Child Protection Unit in the present case. The Form 17 is prescribed under above Rule shows that the child was produced before the Child Welfare Committee at 04:40 PM. The Form 17 has been brought on record by way of report submitted by the District Magistrate, Begusarai.

7. It is informed by the Superintendent of Police, Begusarai that an F.I.R. being Begusarai (Mufassil) P.S. Case No. 504 of 2022 dated 20.09.2022 has been lodged only against the Superintendent, Balika Grih, Begusarai for offence committed under POCSO Act and Investigating Officer has also been appointed to hold enquiry of the whole affairs.



8. Mr. Vikram Deo Singh, learned Amicus Curiae has shown his great concern to the present issue and the manner in which the Balika Grih in the State are functioning and he has deprecated so far as the materials which has come in the present case on the basis of preliminary report submitted by the District Magistrate, Begusarai. It is informed by Mr. Vikram Deo Singh, learned Amicus Curiae that mausi and mother of the victim had visited the Balika Girh, Begusarai on 29.12.2021 and also the mother of the victim had visited on 13.01.2022 as it would appear from the counseling report maintained at Balika Grih, Begusarai. The counseling report has been made part of the report, but it seems that deliberately the attendance register which is mandatory as per the Juvenile Justice Act has not been produced before this Court. The very manner in which the Individual Care Plan as per the provision of Juvenile Justice Act relating to the victim has been maintained, appears to be manufactured after passing of the order dated 29.08.2022. Mr. Vikram Deo Singh, learned Amicus Curiae has further submitted that the information uploaded on the State Crime Records Bureau website relating to missing persons of Katihar District does not show the name of the victim girl of the present case. He also submits that with respect to missing persons in



Samastipur district, it is very surprising that almost all the missing persons name uploaded on the website relates to only females or female child. He further with full force has submitted that whatever record which has been maintained at Balika Grih relating to the present victim and her so called counseling records seems to be manufactured one just to save the Superintendent, Balika Grih, Begusarai; Staffs of Child Welfare Committee, Samastipur and other authorities of the District. In this regard, he has also referred to date of counseling of the victim which was conducted at Balika Grih, Begusarai raises much doubt on the alleged statement recorded of the victim. He further informs that record shows that the office holder of the Child Welfare Committee had also allegedly visited the Balika Grih, Begusarai, but the Officers of the Child Welfare Committee had not taken effort to interact with the victim to restore her back to the custody of her parents. The entire record maintained during the custody of the victim appears to be manufactured. He further submitted that on the earlier occasion the District Magistrate after going through the records which was made available by the Superintendent of Balika Grih, Begusarai in the Court had referred to the alleged statement of the victim recorded on 15.03.2021 not in accordance with the



provisions of the Juvenile Justice Act as well as POCSO Act. Mr. Vikram Deo Singh, learned Amicus Curiae finds it quite astonishing that even though the mother and mausi of the victim had visited on 29.12.2021 and 13.01.2022, neither the office holder of the Child Welfare Committee, Samastipur nor the Superintendent, Balika Grih, Begusarai had taken effort to restore the child to her mother as per the provisions of Juvenile Justice Act, even though the girl had shown her willingness to go along with her mother.

9. This Court finds force in submission made by the learned Amicus Curaie, Mr. Vikram Deo Singh on the basis of the records produced before this Court.

10. The deplorable state of affairs in shelter homes of Bihar has been no secret. Time and again, the acts of grave fundamental rights violations and crimes against women, surfaces before us. The unperturbed attitude of the functionaries involved in the running of the Shelter homes and other persons associated in the illegal acts committed in such shelter homes, calls for prompt and stringent action, by the State.

11. In the present case, the facts that have come up, clearly points towards the discrepancies in the working of the Child Welfare Committee, the district administration and the



Shelter Home concerned.

12. The traumatic experience that the victim girl witnessed for about nine months, had deleterious effect on her mental health. But she is not the lone sufferer here for her family too underwent the agony of this ghastly act. Although there are provisions in place for giving monetary compensation for victims of such illegal acts, but the traumas afflicted to mind is irreparable.

13. It ought to be the duty of the State to act proactively to ensure that such instance demeaning human values which are a blot on the society, shall be checked upon and handled with due care and undivided attention.

14. Another shocking fact that was brought to the notice of the Court is the rampant and unchecked, missing of females in the district of Samstipur, as per the data in the Bihar Crime Record Bureau. This revelation in itself is indicative of something ominous and sinister going on in the Samsatipur district in particular and in the other districts of Bihar at large. It greatly concerns this Court that if this is the official number of missing females that were reported then what is the unimaginable number of females whose missing go unreported.

15. It has been informed by Superintendent of Police,



Katihar that the mother of the victim 'Y' has also accompanied him and all the officers present in the Court had agreed that they are most concerned about the amount of compensation which must be awarded not only to the victim but also to the family of the victim who were also left in the pathetic condition because of losing their only daughter and had to suffer.

16. The District Magistrate, Begusarai informs this Court that he has already taken steps for awarding compensation to the victim and her family and he is trying his best to get the matter expedited forthwith so that the appropriate amount of compensation can be fixed in the peculiar facts and circumstances of the present case taking into consideration the suffering of the victim who was kept in illegal confinement, especially by the Superintendent, Balika Grih, Begusarai and other persons who are not named in the F.I.R. which was lodged after holding preliminary enquiry at his level.

17. This Court appreciates the concern shown by the officers present for due compensation to be paid to the victim as well as her family and in this regard, the District Magistrate, Begusarai has already taken steps and the matter will be placed by him in the next meeting of the Victim Compensation Board, which is headed by the District and Sessions Judge, Begusarai.



18. The District Magistrate, Begusarai informs this Court that he will submit list of all such victims who have been selected for due compensation and the list prepared with respect to the present victim will be placed before the District Judge, Begusarai who will convene meeting with respect to the victim compensation who heads the Victim Compensation Board.

19. The District Judge, Begusarai is directed to hold above mentioned meeting within a period of one week.

20. Taking into consideration the nature of crime committed by the petitioner, materials available on record and facts recorded in order dated 29.08.2022 and here-in-above, this Court is not inclined to release the petitioner on bail. Accordingly, the prayer for bail made on behalf of the petitioner is rejected and the present bail application is dismissed.

21. The personal appearance of the District Magistrate, Begusarai; the Superintendent of Police, Begusarai and the Superintendent of Police, Katihar is dispensed with for the present.

22. In view of the precarious state of affairs of the Balika Grih, Begusarai, in particular, and other Balika Grih functioning in the State in general, this Court will not abdicate from its constitutional duty in larger public interest to refer the



matter before Hon'ble the Chief Justice for institution of Public Interest Litigation in the interest of justice.

23. Accordingly, with above observations, the above mentioned bail application stands disposed of.

24. Registry is directed to submit the records of the present application being Cr. Misc. No. 68307 of 2021 along with the report submitted by the District Magistrate under his own signature along with the Carbon Copy of the F.I.R. being Begusari (Muffasil) P.S. Case No. 504 of 2022 dated 20.09.2022 submitted to this Court by the Superintendent of Police, Begusarai.

25. This order has been passed in presence of the mother of the victim.

**(Purnendu Singh, J)**

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