

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Writ Jurisdiction Case No.684 of 2023

Arising Out of PS. Case No.- Year-0 Thana- District- Nalanda

AKASH KUMAR Son of Narayan Pandey Resident of Village - Katardih,
P.O.- Bhagwanpur, P.S.- Katrisarai, District - Nalanda.

... .. Petitioner/s

Versus

1. The State of Bihar through the Home Secretary, Government of Bihar. Bihar
2. The Director General of Police, Bihar, Patna. Bihar
3. The District Magistrate, Nalanda Bihar
4. The Superintendent of Police, Nalanda Bihar
5. The Officer-in-charge of Police Station, Katrisarai, District - Nalanda Bihar
6. The S.I. Paras Nath Yadav, P.S. Shaktinagar, District - Sonbhadra (U.P).
Uttar Pradesh
7. A
8. B
9. C
10. D

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate

For the Respondent/s : Mr. Manish Dhari Singh, AC to AG

CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE RAJIV ROY

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

2 17-05-2023 Let the names of respondents No. 7, 8, 9 and 10 be not printed in the cause title of the present order, who are being described as A, B, C, and D herein respectively, so that they are not put to any unnecessary social embarrassment in view of the nature of relief which the petitioner has claimed.

It is the petitioner's case that he and A (respondent No. 7) solemnized marriage on 17th August 2022, in a temple. It is also asserted that both of them are major. It has been alleged



in the writ application that on 18.09.2022, the Officer In-charge of Katrisarai Police State, District- Nalanda came to the petitioner's house and took his wife into custody, in connection with Shaktinagar P.S. Case GD no. 018 dated 19.08.2022 registered in respect of missing of the said respondent No. 7. The petitioner submits that respondent No. 7 is presently in the custody of B (her mother), C and D (brothers).

The said respondents reside in Uttar Pradesh in the district of Sonbhadra. The petitioner has remedy under Section 97 and 98 of the CrPC which read thus:

“97. Search for persons wrongfully confined.—If any District Magistrate, Sub-divisional Magistrate or Magistrate of the first class has reason to believe that any person is confined under such circumstances that the confinement amounts to an offence, he may issue a search-warrant, and the person to whom such warrant is directed may search for the person so confined; and such search shall be made in accordance therewith, and the person, if found, shall be immediately taken before a Magistrate, who shall make such order as in the circumstances of the case seems proper.

98. Power to compel restoration of abducted females.—Upon complaint made on oath of the abduction or unlawful detention of a woman, or a female child under the age of eighteen years for any unlawful purpose, a District Magistrate, Sub-divisional Magistrate or Magistrate of the first class may make an order for the immediate restoration of such woman to her liberty, or of such female child to her



husband, parent, guardian or other person having the lawful charge of such child, and may compel compliance with such order, using such force as may be necessary.”

The petitioner has claimed that he has filed an application before the District Magistrate, Nalanda in this regard. By making a representation, a copy of which brought on record by way of Annexure-4.

In our considered view, no case is made out for issuance of writ of habeas corpus in the facts and circumstances of the case. The petitioner shall be at liberty to approach the District Magistrate of appropriate jurisdiction in accordance with the provision under Sections 97 and 98 of the CrPC. The petitioner is also be at liberty to take recourse to any other provision of law for redressal of his grievance.

The application stands disposed of accordingly.

(Chakradhari Sharan Singh, J)

(Rajiv Roy, J)

Nishant/Suraj-

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