

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.1552 of 2023

Arising Out of PS. Case No.-80 Year-2022 Thana- MOHAMMADPUR District- Gopalganj

Soni Kumari W/O Sri Nitish Kumar, D/O Harmesh Ray R/O Village-
Kabirpur, P.S- Mohammadpur, Distt.- Gopalganj.

... .. Petitioner/s

Versus

1. The State Of Bihar Through The Principal Secretary, Department Of Home Affairs, Government Of Bihar Patna
2. The Director General Of Police, Bihar, Patna. Bihar
3. The Inspector General Of Police, Saran Region, Bihar, Patna. Bihar.
4. The Superintendent Of Nari Niketan, Gaighat, Patna. Bihar
5. The Deputy Inspector General Of Police, Saran Region, Saran At Chapra, Bihar
6. The Superintendent Of Police, Gopalganj. Bihar
7. The Deputy Superintendent Of Police, Gopalganj. Bihar
8. The Officer Incharge, Mohammadpur Police Station, Distt.- Gopalganj. Bihar
9. The Investigation Officer, Mohammadpur Police Station, Distt.- Gopalganj. Bihar
10. Nitish Kumar S/O Yogendra Ray R/O Village- Kabirpur, P.S.- Mohammadpur, District.- Gopalganj.
11. Gyanti Devi W/O Harmesh Ray R/O Village- Kabirpur, P.S.- Mohammadpur, District.- Gopalganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Naresh Prasad
For the Respondent/s : Mr. P.K. Shahi (A.G.)

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

3 23-11-2023 In the instant petition, the petitioner has prayed for the following reliefs.

(i) *To issue a writ of Habeas Corpus*



for commanding/directing the Respondents to release the petitioner from illegal custody from Nari Niketan (After Care Home), Gaighat, Patna without being accused in any case and she kept confined because of being victim of Mohammadpur P.S. Case No. 80 of 2022 dated 17.04.2022 inspite of being major and shown her desire to go with her husband namely Nitish Kumar.

(ii) To issue an appropriate writ in the nature of writ of mandamus directing the respondents to pay the compensation/penalty to the petitioner for her illegal detention of about 11 ½ months without being accused in any case and she kept confined because of being victim of Mohammadpur P.S. Case No. 80 of 2022 dated 17.04.2022 inspite of being major and shown her desire to go with her husband Nitish Kumar along with her child.

(iii) To pass such other order/orders, direction / directions as your lordships may deem fit and proper in the facts and circumstances of the case.

2. The petitioner who is alleged to be a minor as on the date of registration of Mohammadpur P.S. Case No. 80 of 2022 dated 17.04.2022. Petitioner and respondent No. 10 Nitish Kumar were alleged to have in love affair and they were married. Petitioner is stated to have given birth to a female



child.

3. In this backdrop, a jurisdictional trial Court is stated to have remanded the petitioner to Naari Niketan (After Care Home) Gai Ghat, Patna and as on today she is staying in the aforementioned care home. In the light of these facts and circumstances one cannot draw inference that petitioner is a corpus so as to entertain the writ petition for habeas corpus. In fact, we have noticed that petitioner had been sent to Naari Niketan by virtue of judicial order. Therefore, petitioner has remedy of questioning the validity of the trial Court order by which she had been sent to Naari Niketan. The petitioner has not resorted insofar as questioning the validity of the trial Court order. Therefore, the present writ petition for habeas corpus is not maintainable. Accordingly, writ petition stands disposed of.

4. Disposal of the present petition would not be a hurdle for the petitioner to approach the concerned Court in apprising that as on today she is stated to be major and therefore, she cannot be continued to stay in the custody of Naari Niketan (after care home), Gai Ghat, Patna. In the alternative, petitioner is at liberty to question the validity of the trial Court order by which petitioner had been sent to Naari Niketan (After Care



Home), Gai Ghat, Patna

5. With the above observation writ petition stands disposed of.

(P. B. Bajanthri, J)

(Ramesh Chand Malviya, J)

saaurabhkr/-

U			
---	--	--	--

