

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Revision No.737 of 2015**

Arising Out of PS.Case No. -null Year- null Thana -null District- MUZAFFARPUR

Sunil Kumar, son of Bipat Ram, R/O-village- Dhobhan, P/s- Mushahari, District- Muzaffarpur. Under taking the guardianship of Dhanmanti Devi, Wife of Late Bipat Ram, R/O- Village- Dhobhan, P/s- Mushashari, District- Muzaffarpur.

Versus

.... .... Petitioner

The State of Bihar.

.... .... Respondent

**Appearance :**

For the Petitioner/s : Mr. Alok Kumar Alok, Advocate  
Mr. Santosh Kumar, Advocate  
For the State : Mr. Syed Ehteshamuddin, APP  
For the informant : Mr. Raju Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**

ORAL JUDGMENT

**Date: 19-08-2016**

By way of the present application preferred under Section 53 of the Juvenile Justice (Care and Protection of Children) Act, 2000 has been filed against the order dated 22.01.2015 passed by the 1<sup>st</sup> Additional Sessions Judge-cum-Special Judge, POCSO Act, Muzaffarpur in Cr. Appeal No. 85 of 2014 whereby the appellate court has affirmed the order dated 15.11.2014 passed by the Juvenile Justice Board (for short 'JJ Board'), Muzaffarpur in Mushahari P. S. Case No. 176 of 2013 and refused to grant bail to the petitioner.

2. The aforesaid case was registered under



Sections 376 and 120-B of the Indian Penal Code as also Sections 4, 6, 8, 10, 17, 18 and 21 of the Protection of Children from Sexual Offences Act, 2012. According to the prosecution case, the petitioner is alleged to have bolted the door of the room from inside and committed rape upon a minor girl aged about six years. Due to the alleged rape, there was profused bleeding from the private part of the victim. On apprehension, the petitioner was declared a juvenile in conflict with law vide order dated 12.08.2014 passed by the JJ Board, Muzaffarpur.

3. It is submitted by the learned counsel for the petitioner that the age of the petitioner was determined above 17 years but under 18 years on the alleged date of commission of crime. Since the JJ Board had rejected the bail application of the petitioner vide order dated 15.11.2014, the petitioner had preferred an appeal before the sessions court and vide order dated 22.01.2015, the learned 1<sup>st</sup> Additional Sessions Judge-cum- Special Judge, POCSO Act, Muzaffarpur dismissed the appeal of the petitioner and affirmed the order passed by the JJ Board.

4. It would be evident from perusal of the appellate order that the parents of the petitioner are also facing criminal prosecution and thus, the appellate court assigned reason that if the petitioner is released on bail, he will naturally go home and will

remain in custody of his guardian but the parents of the petitioner are also facing criminal prosecution, it would be detrimental to the future of the petitioner and thus, the appellate court found it a fit case where the petitioner should be kept in reformatory/observation home.

5. In my opinion, the reason assigned for refusing to grant bail by the appellate court is justified. Furthermore, the report submitted by the Principal Magistrate, JJ Board, Muzaffarpur to this Court would also make it evident that the inquiry proceeding is at its fag end. In that view of the matter, I do not find it a fit case in which the order of bail should be passed in favour of the petitioner.

6. The JJ Board, Muzaffarpur is directed to dispose of the proceeding in respect of the petitioner as early as possible, preferably within 30 days from the date of receipt/production of a copy of this order.

7. With these observations and directions, the revision application is dismissed.

**(Ashwani Kumar Singh, J.)**

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