

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.826 of 2015

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

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Ajit Paswan S/o Ramkripal Paswan @ Pala Paswan, Resident of Village - Sapahi,
P.S. - Brahampur, District - Buxar, Bihar through his father and natural guardian Sri
Ramkripal Paswan @ Pala Paswan, Son of Late Dhuri Paswan, Resident of Village
Sapahi, P.S. - Brahampur, District - Buxar, Bihar.

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Surendra Kumar Singh, Adv.
Ms Tulika Singh, Adv.

For the Respondent/s : Mr. Satyendra Narayan Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 16-08-2016

By way of this revision application preferred under
Section 53 of the Juvenile Justice (Care and Protection of Children)
Act, 2000, (hereinafter referred to as the 'Act of 2000'), the petitioner
has challenged the order dated 25th August, 2015 passed by the
learned 1st Additional District & Sessions Judge, Buxar in Cr.Appeal
(Juvenile) No. 39 of 2015, whereby the appeal preferred by the
petitioner under Section 52 of the Act of 2000 against the order dated
13th July, 2015 passed by the Juvenile Justice Board, Buxar in J.J.B.
Case No. 588 of 2015 by which the prayer for bail of the petitioner
was rejected, has been dismissed and the order passed by the Juvenile
Justice Board, Buxar has been affirmed.

2. The petitioner has been made accused in Brahampur
P.S.Case No. 64 of 2015 dated 16th March, 2015 registered under

Sections 363 and 366-A of the Indian Penal Code. He has been sent to Observation Home at Ara on 29th April, 2015 pursuant to his surrender in the aforesaid case before the Juvenile Justice Board, Buxar.

3. It is submitted by the learned counsel for the petitioner that after recovery the victim did not name the petitioner in her statement recorded under Section 161 of the Code of Criminal Procedure (for short 'CrPC') on 22nd March, 2015. However, a day thereafter on 23rd March, 2015, when the statement of the victim was recorded under Section 164 CrPC, she has named the petitioner as the person, who had abducted and ravished her. It is submitted that the subsequent statement under Section 164 CrPC is tutored one.

4. It is further contended that neither the court of Sessions Judge nor the Juvenile Justice Board has passed the order in respect of bail of the petitioner taking into consideration the provisions of the Act of 2000 in correct perspective. The findings of the court and the Board that the release of the petitioner on bail would expose him to moral physical or psychological danger is based on conjecture and surmises as no report from the Probation Officer was ever called for.

5. On the other hand, learned counsel for the State has submitted that the petitioner has been made accused in a serious offence and the victim has taken his name in her statement recorded under Section 164 CrPC wherein she has alleged that the petitioner

had subjected her to physical abuse. However, after going through the case diary, he concedes that in the initial statement recorded under Section 161 CrPC the victim had not named the petitioner.

6. I have heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

7. The provision of bail prescribed under Section 12 of the Act of 2000 reads as under :-

“12. Bail of juvenile.- (1) When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is brought before a board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a Probation Officer or under the care of any fit institution or fit person but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.

2. When such person having been arrested is not released on bail under sub-section (1) by the officer incharge of the police station, such officer shall cause him to be kept only in an observation home in the prescribed manner until he can be brought before a Board.

3. When such person is not released on bail under sub-section (1) by the Board it shall, instead of committing him to prison, make an order sending him to an observation home or a place of safety for such period during the pendency of the inquiry regarding him as may be specified in the order.”

8. From perusal of the provisions prescribed under Section

12 of the Act of 2000, it would be evident that the prayer for bail of a juvenile in conflict with law can be rejected only on three grounds, i.e.

- (i) that the release is likely to bring him into association with any known criminal;
- (ii) that the release is likely to expose him to moral, physical or psychological danger; or
- (iii) that the release will defeat the ends of justice.

9. The language of Section 12 of the Act of 2000 would make it evident that the intention of the legislature is to grant bail to a juvenile irrespective of the nature or gravity of offence committed by him.

10. On a perusal of the order passed by the Board and the Sessions Court, I find that the reasons assigned for rejection of bail are not in conformity with the provisions prescribed under Section 12(1) of the Act of 2000. In order to establish that the release of the juvenile in conflict with law is likely to bring him into association with known criminals or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice, it is incumbent for the prosecution to bring on record such material including the report of the Probation Officer. In the present case, apparently, no such evidence has been brought on record by the prosecution. Apparently, the findings of the court below and the Board are based on conjecture and surmises. Furthermore, the juvenile

is lodged in observation home since 29th April, 2015. It would be evident from perusal of Section 14 of the Act of 2000 that the inquiry has to be done expeditiously and without any delay. There is nothing on record on the basis of which the prolonged inquiry being conducted by the Juvenile Justice Board, Buxar can be justified.

11. In that view of the matter, the impugned order dated 25th August, 2015 passed by the learned 1st Additional District & Sessions Judge, Buxar in Cr.Appeal (Juvenile) No. 39 of 2015 and the order dated 13th July, 2015 passed by the Juvenile Justice Board, Buxar in J.J.B. Case No. 588 of 2015 are set aside. The petitioner Ajit Paswan is directed to be released on furnishing bond of Rs.10,000/- by the father of the petitioner with two solvent sureties of the like amount to the satisfaction of the Juvenile Justice Board, Buxar in connection with Brahampur P.S.Case No. 64 of 2015.

12. The revision application stands allowed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	NAFR
CAV DATE	-----
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