

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.615 of 2016

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

Ashok Kumar Rai, son of Jai Nandan Rai, Resident of village-Morsandi P.S.-
Motipur District -Muzaffarpur through his Father and Natural guardian Jai Nandan
Rai son of Mahendra Rai, resident of village-Morsandi P.S.- Motipur District-
Muzaffarpur. Petitioner

Versus

The State of Bihar

.... Respondent

Appearance :

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

For the Respondent/s : Mr. Anil Kumar Singh-1, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 16-08-2016

The petitioner, a juvenile in conflict with law, who is in jail in connection with Motipur P.S. Case No. 283 of 2015 dated 16.10.2015 registered under Sections 366A and 376D of the Indian Penal Code and Sections 4 & 6 of the Protection of Children from Sexual Offences Act, 2012, moved for bail before the Juvenile Justice Board, Muzaffarpur (For short 'J.J. Board'). The J.J. Board rejected his application vide order dated 23.04.2016.

2. From perusal of the order passed by the J.J. Board, it would be evident that though the social investigation report was in favour of the petitioner, it rejected his application mainly on the ground that if released on bail, there is all likelihood that he may come into association with known criminals or his

release would expose him to moral, physical or psychological danger.

3. The petitioner challenged the order of J.J. Board in appeal before the Sessions court. The appellate court rejected the appeal preferred against the order of the J.J. Board vide impugned order dated 20.05.2016 passed in Cr. Appeal No. 39 of 2016 and affirmed the order passed by the J.J. Board taking into consideration the seriousness of the offences and the ground on which the application for bail was rejected by the J.J. Board.

4. It is submitted by the learned counsel for the petitioner that the petitioner has been implicated in this case without there being any cogent material against him. The victim, a girl, aged about fourteen years, was examined by the Medical Board on 30.10.2015 and the Medical Board has opined that there is no evidence of any injury either her person or on her private part. It is also submitted that the swab of the victim sent for chemical examination and the report of the Forensic Science Laboratory also negates the allegation of rape. It is also contended that the social investigation report being in favour of the petitioner, there was no reason on the basis of which the J.J. Board or the appellate court could have given any finding that in case of release, the petitioner would fall in association with known criminals or his release would

expose him to moral, physical or psychological danger or his release would defeat the ends of justice.

5. It is further contended that though the petitioner has been declared juvenile and there was a specific direction issued under the order dated 22.06.2016 by the Special Judge, POCSO Act to send him to the Observation Home, he was not transferred to the Observation Home till the date of filing of this application, i.e., 23rd June, 2016.

6. On the other hand, learned counsel for the State has submitted that the offence under which the petitioner is being tried is heinous in nature. The J.J. Board and the appellate court have given cogent reasons to reject the application for bail of the petitioner. He also submits that the order impugned is neither illegal nor perverse. However, he failed to explain as to how a juvenile in conflict with law declared by a competent court, could have kept in jail despite there being direction to transfer him to Observation Home.

7. I have heard respective counsel for the parties and perused the record. I find force in the submissions made by the learned counsel for the petitioner. The impugned order passed by the appellate court and the order passed by the J.J. Board are not in conformity with Section 12(1) of the Juvenile Justice (Care &

Protection of Children) Act, 2000. The reasons assigned by them for rejection of bail of the petitioner are based on conjecture and surmises.

8. In that view of the matter, I allow this application. The impugned order dated 20.05.2016 passed by the learned 1st Additional Sessions Judge, Muzaffarpur passed in Cr. Appeal No. 39 of 2016 and the order dated 23.04.2016 passed by the J.J. Board, Muzaffarpur in Motipur P.S. Case No. 283 of 2015, are set aside. The petitioner is directed to be released on bail on furnishing bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount to the satisfaction of the J.J. Board, Muzaffarpur subject to further condition that the father of the petitioner will file an affidavit that after being released on bail, he would personally take care of his son and would try to inculcate good virtues in him.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	-----
Uploading Date	20.08.2016
Transmission Date	20.08.2016