

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.596 of 2017

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

=====

Ravi Kumar, son of Rajesh Sahani, Resident of village- Baherwa Ganchi, P.S.-
Nayagaon, District- Saran. Sumitra Devi, Wife of Rajesh Sahani (Mother of the
petitioner) as natural guardian of the petitioner.

.... Petitioner

Versus

The State of Bihar

.... Respondent

=====

Appearance :

For the Petitioner : Mr. Manoj Kumar, Advocate

For the State : Mr. Ajay Kumar No.1, APP

=====

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 10-10-2017

Heard learned counsel for the parties.

2. This revision is directed against judgment dated 31.03.2017, passed by learned Additional Sessions Judge, Saran in Criminal (Juvenile) Appeal No.26 of 2017 whereby the learned 1st Additional Sessions Judge, Saran at Chapra has affirmed the order dated 10.03.2017, passed by Juvenile Justice Board, Chapra refusing the prayer of bail of the petitioner.

3. The allegation against the petitioner is that the petitioner forcibly took away an eleven year old daughter of the informant in nearby agricultural field and committed rape, when she raised alarm then women working in nearby field came and saw the petitioner escaping away from the place.

4. Learned counsel for the petitioner submits that the girl



has not been medically examined by any doctor and the Juvenile Justice Board, Chapra has assessed the age of the petitioner in between 13½ to 14½ years on the alleged day of occurrence.

5. Learned counsel for the State submits that the offence is heinous in nature.

6. There is no dispute that petitioner is a juvenile in conflict with law as his age was assessed in between 13½ to 14½ years. The Board has rejected the prayer of bail on the ground of serious nature of allegation as well as the petitioner being absconder for one year and his release would expose him to moral, physical and psychological danger. Similar is the reasoning given by the appellate court. Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 is the relevant provision under which the bail of a juvenile in conflict with law is considered. The word used in the section is 'shall' that juvenile in conflict with law irrespective of the nature of the offence whether bailable or non-bailable shall be released on bail except on three conditions enumerated in the proviso of the said section, (i) If on release he is likely to go in association of known criminals, (ii) if his release would expose him to moral, physical and psychological danger, and (iii) If his release is not in the interest of justice. The seriousness of the offence is no consideration for rejection of bail. The criminal law with respect to juveniles are



applied in different perspective. It is restorative in nature. This Court does not find any adverse finding of the social investigation report or any police report that the petitioner is a member of a criminal gang or likely to go in association with known criminals or in what way and manner in case of his release, he would be exposed to moral, physical or psychological danger. At the time of the alleged occurrence he was less than 15 years of age, so the petitioner, named above, is directed to be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the Juvenile Justice Board, Chapra in connection with Nayagaon P.S. Case No.89 of 2015 (J.J.B. Case No.1239 of 2017) with a condition that the bailors must be his parents who will file an undertaking to keep the petitioner in their proper care and supervision.

7. The criminal revision application stands allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	11.10.2017
Transmission Date	11.10.2017

