

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.1141 of 2017

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

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Rohit Kumar @ Pankaj Kumar, Son of Ayodhya Singh, Resident of Village- Lilari,
P.S.- Charpokhari District- Bhojpur through his father & Natural Guardian
Ayodhya Singh, Son of Jairam Singh, Resident of Village- Lilari, P.S.-
Charpokhari, District- Bhojpur

.... Petitioner

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Petitioner : Mr. Bhavesh Kumar, Advocate

For the State : Mr. Kumar Virendra Narayan, APP

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 08-01-2018

Heard learned counsel for the petitioner and the learned
APP appearing on behalf of the State.

2. The petitioner has assailed in this revision application
filed under Section 102 of the Juvenile Justice (Care and Protection of
Children) Act the order dated 01.11.2017, passed by learned Sessions
Judge, Bhojpur, Ara in Criminal Appeal No.28 of 2017 rejecting the
prayer of bail of the petitioner as well as affirmed order dated
17.08.2017, passed by Juvenile Justice Board, Bhojpur, Ara in J.J.B.
Case No.1069 of 2016 denying bail to the petitioner.

3. Learned counsel for the petitioner submits that the
petitioner was found minor after the age determination enquiry done by
the Juvenile Justice Board, finding him 16 years of age. There is some
dispute with regard to the mango tree as the same has transpired in the
social investigation report giving motive for false implication of the



petitioner and no positive medical evidence was found in the examination of the prosecutrix by the medical board. The victim was examined by the medical board on the same day within nine hours and no trace of any spermatozoa was found as well as absence of any kind of injury on her body as she alleged that petitioner bite her on her breast and the girl is major as per the medical board report finding her 18 years of age on the basis of radiological and dental examination. The appellate court rejected the prayer of bail and that is not in the interest of justice to release the petitioner without any material available on the record in support of the said finding.

4. Having considered the rival submissions and on perusal of the records, it appears that the petitioner is 16 years of age and declared juvenile by the Juvenile Justice Board on conclusion of the age determination enquiry considering the records of the first attended school. The medical board also assessed his age approximately 17 years and the girl/prosecutrix was found 18 years of age and as per the medical examination no spermatozoa was found in the vaginal swab of the prosecutrix and no definite opinion with regard to commission of rape and social investigation report also indicates the possibility of false implication due to dispute of a mango tree. Section 12 of the Juvenile Justice (Care and Protection of Children) Act is explicit with regard to the grant of bail to a juvenile in conflict with law. The gravity of the offence is not the ground for rejection of bail to a juvenile except three



conditions mentioned in the proviso. However, the learned Sessions Judge, Bhojpur has rejected the bail of the petitioner observing that his release not in the interest of justice but in absence of any material for holding such view. Grant of bail to a juvenile is rule whereas rejection is exception that too for good reason satisfying the condition of proviso of Section 12 of Juvenile Justice (Care and Protection of Children) Act.

5. The circumstances discussed above and in view of the provisions of bail to a juvenile, petitioner Rohit Kumar @ Pankaj Kumar 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 learned Juvenile Justice Board, Bhojpur, Ara in connection with J.J.B. Case No.1069 of 2016, arising out of Charpokhari P.S. Case No.125 of 2016 with condition that one of the bailors must be his father who will also file an undertaking to keep his son in proper care.

6. The criminal revision application stands allowed.

(Arun Kumar, J.)

S.Kumar/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	17.01.2018
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