

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.115 of 2018

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1. Satendra Kumar @ Satendra Raj Bhar @ Satyendra Kumar @ Mussa,
S/o Bharat Raj Bhar, resident of Village- Samhota, P.S.- Kopa, District-
Saran at Chapra, under the guardianship of his natural mother.

.... Petitioner

Versus

The State of Bihar.

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Dewendra Narayan Singh, Advocate

For the Respondent/s : Mr. Ajit Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

7 25-09-2018 This revision application has been preferred against the judgment dated 18.12.2017 passed by learned 1st Additional Sessions Judge, Saran at Chapra in Criminal (Juvenile) Appeal No. 66 of 2017 challenging the order dated 27.11.2017 passed by Juvenile Justice Board, Saran, Chapra in JJB Case No. 1773 of 2017 by which prayer for bail of the petitioner has been rejected.

Prosecution case, in short, is that informant Meera Devi along with his daughter Pinky Kumari, aged about 14 years, had gone to attend the call of nature when the petitioner along with two unknown persons came and lifted her daughter and after closing her mouth, committed rape upon her and when informant raised alarm two unknown persons had pressed her mouth and threatened her to kill and they have abused her. Further



allegation is that when the informant went to the house of the petitioner for making complaint, family members of the petitioners abused her taking her caste name.

It appears that petitioner claims to be a juvenile and he has been declared juvenile by order dated 16.11.2017 by Juvenile Justice Board on the basis of school leaving certificate and found his age as 14 years 3 months and prayer for bail of the petitioner has been rejected by the JJB and against which petitioner preferred an appeal which was also dismissed.

Learned counsel for the petitioner has assailed the impugned judgment and order on the ground that petitioner is a juvenile and moreover in her statement recorded under Section 164 Cr.P.C. (Annexure-2) the victim girl has not named this petitioner and the girl was found to be major in the report of the Medical Board, which will appear from Annexure-6 to the supplementary affidavit filed today.

It has further been submitted that learned JJB and appellate court have not considered the aforesaid aspect of the matter and dismissed the prayer for bail of the petitioner on the basis of Social Investigation Report, which is against the petitioner but the Social Investigation Report has not been brought on record.



Heard learned APP, who has opposed the prayer for bail and submitted that there is no illegality in the impugned judgment and order and they are quite sustainable in the eye of law.

Having heard both sides and from perusal of the record it appears that petitioner was declared juvenile by JJB vide its order dated 16.11.2017 on the basis of School Leaving Certificate but prayer for bail of the petitioner was rejected by JJB on the ground that Social Investigation Report is not in favour of the petitioner and if petitioner is enlarged on bail there is every chance of his being exposed in social, physical and psychological danger and that is also against the ends of justice and the appeal was dismissed on the same ground that Social Investigation Report is against the petitioner. However, from perusal of the case diary it appears that in her statement recorded under Section 164 Cr.P.C. the victim girl has not named this petitioner, rather she named one Guddu, who has committed rape upon her, and petitioner is in custody since 17.10.2017.

In view of the facts and circumstances, as stated above, this revision application is allowed. The impugned judgment of appellate court and the order of JJB are set aside.

The petitioner is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with



two sureties of the like amount each to the satisfaction of Juvenile Justice Board, Saran at Chapra, in connection with Saran Mahila P.S.Case No. 51 of 2017, subject to the condition that one of the bailors shall be his father, who will undertake to prohibit the petitioner from the criminal activities and petitioner shall be under supervision of Probation Officer.

(Vinod Kumar Sinha, J)

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