

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Revision No.605 of 2018**

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1. Nitish Kumar, S/o Ram Bilas Paswan, Resident of Village- Khirichak,  
Police Station- Asthawan, District- Nalanda.

.... .... Petitioner/s

Versus

1. The State of Bihar.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr. Ganesh Sharma

For the Respondent/s : Mr. Sri Jai Narain Thakur

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**CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA**  
**ORAL ORDER**

3      01-10-2018                      This revision application has been directed against the Judgment dated 23.03.2018 passed by the 1<sup>st</sup> Additional Sessions Judge-Cum- Special Judge, Nalanda at Biharsharif, in Juvenile Appeal No.11 of 2017 preferred by the petitioner by which order refusing the prayer for bail of the petitioner by the Juvenile Justice Board, (in short 'J.J.B.') Nalanda at Biharsharif vide order dated 24.08.2017 in J.J.B.Case No.226 of 2017 has been affirmed.

The prosecution case, in brief, is that the petitioner who happens to be the cousin brother of the prosecutrix has committed rape upon her and the same has also been supported by her statement recorded under Section 164 Cr.P.C.

During the pendency of the case, the petitioner claims himself to be juvenile and the same was enquired and thereafter after enquiry the Juvenile Justice Board has found him juvenile vide order dated 10.08.2017 passed in J.J.B. No.226 of 2017 and



found him to be aged about 15 years 4 months and 2 days.

It further appears that thereafter the petitioner moved before the Juvenile Justice Board and prayed for bail but the same has been rejected vide order dated 24.08.2017, against which he preferred appeal bearing Juvenile Appeal No.11 of 2017 and the same was also rejected vide order dated 23.03.2018 and the order passed by Juvenile Justice Board (JJB) has been affirmed. It further appears that Juvenile Justice Board has rejected the prayer for bail of the petitioner on the ground of gravity of the offence as well as considering that the release of the petitioner may bring the petitioner into association with known criminal or expose the said person to moral, physical or psychological danger and his release would defeat the ends of justice and also on the ground that the report of the Probation Officer also shows that the petitioner is required extensive counseling and ethical education and training and such thing can be possible only in remand home and not in the open society.

Learned counsel for the petitioner assailed the Judgment of the appellate court as well as the impugned order on the ground that the petitioner is a juvenile under the provision of Juvenile Justice Act and the petitioner is entitled to be released on bail unless his release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological



danger or his release would defeat the ends of justice. However, there is nothing on the record against him and the father of the petitioner is ready to be bailor of the petitioner and undertakes that he will control the activity of the petitioner.

Heard the learned A.P.P. also who opposed the prayer for bail of the petitioner stating that there is material on record that has been supported by the victim in her statement recorded under Section 164 Cr.P.C. and the victim is also minor.

Having heard both sides and in view of the fact that the petitioner has been found to be minor aged about 15 years but there is allegation against him of rape under Section 376 of the I.P.C. and the appellate court has found that his release is likely to bring him into association with known criminals or expose him to moral, physical or psychological danger and as such, I find no illegality in the impugned judgment and impugned order.

Accordingly, this revision application is dismissed.

However, learned J J B is directed to expedite the trial as the petitioner is in custody for more than a year and try to dispose of the case within a period of one year.

**(Vinod Kumar Sinha, J)**

AnilKrSinha/-

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