

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1266 of 2018

Arising Out of PS. Case No.-7 Year-2017 Thana- CHIKSAUR District- Nalanda

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Gajendra Paswan @ Gajendra Kumar Son of Late Niranjan Paswan Resident of Village-Sudiha, Police Station Gaurichak, Distt.-Patna through his natural guardian of his mother namely Satolwa Devi Resident of Village-Sudhia, Police Station Gauri Chak, Distt. Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Kumar Singh

For the Respondent/s : Mr. Sri Pradeep Narain Kumar

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL JUDGMENT

Date : 20-12-2018

Heard learned counsel for the petitioner and learned
APP for the State

2. This revision application has been directed against the judgment dated 20.08.2018 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Nalanda at Bihar Sharif in Children Case No. 3 of 2018 whereby and whereunder the prayer for bail of the juvenile-petitioner was rejected and the order dated 04.01.2018 passed by the learned Principal Magistrate, Juvenile Justice Board, Nalanda (hereinafter referred to as the 'JJB') arising out of Chiksaura P.S. Case No. 7 of 2017, has been affirmed.

3. The prosecution case, in short, is that the son of the



informant was working at Patna. On 12.01.2017 at 6:00 P.M., he had proceeded for Patna from his house but he did not return his home and it is alleged that son of the informant had love affairs with wife of one Manoj Paswan and knowing about the same, he has kidnapped the son of the informant to commit criminal offence in conspiracy with Manoj Paswan. It further appears that later on dead body of the son of the informant has been recovered and as such Section 302 of the Indian Penal Code has also been added. Petitioner is named in the FIR.

4. The petitioner was arrested. Later on, petitioner claimed to be juvenile and as such vide order dated 12.12.2017, on enquiry by the J.J.B., he was found to be juvenile and his age was assessed as 16 years 11 months 15 days. It further appears that juvenile-petitioner moved for bail before the J.J.B., which was rejected vide order dated 04.01.2018 on the ground that social investigation report disclosed that the deceased had illicit relation with the *Bhabhi* of the petitioner and as such there is suspicion against him.

5. Against the aforesaid order dated 04.01.2018 passed by the J.J.B., the petitioner filed an appeal for bail before the Children Court, but the same was dismissed vide order dated



20.08.2018 on the ground that the probation report of the Probation Officer supports the fact that the appellant is required extensive counselling and ethical education and training and such thing can be possible only in remand home and not in the open society.

6. Being aggrieved with the aforesaid order of the Children Court as well as the order of the J.J.B., this revision application has been preferred on the ground that petitioner may have been named in the FIR that too only on suspicion as there is no direct evidence against him and he is in custody since 20.03.2017 and the J.J.B. has rejected the prayer of bail on the ground that social investigation report shows that there was love affairs in between the deceased and the *Bhabhi* of the petitioner and the learned appellate Court has rejected the prayer of bail on the ground that appellant is required extensive counseling and ethical education and training but no social investigation report is available on record to show that release of the petitioner will expose him to moral, physical or psychological danger or facilitate him to go into contact with the hardened criminals. As such the orders passed by the appellate court as well as J.J.B. are not sustainable in the eye of law.

7. Heard learned APP also.



8. Having heard both sides and on perusal of record, it appears that petitioner has been made accused only on suspicion and he has been declared juvenile. As per Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, a juvenile alleged to be in conflict with law is entitled for bail unless his release is likely to expose to moral, physical or psychological danger or his release would defeat the ends of justice. However, in the present case, there is nothing on record to show that petitioner has any criminal antecedent or he has any contact with the hardened criminals rather he has been named in the FIR only on the basis of suspicion and he is in custody for more than a year.

9. In such view of the matter, I find no reason to reject the prayer of bail of the petitioner. Hence, this revision application is allowed. The impugned order passed by the Juvenile Justice Board, Nalanda at Biharsharif rejecting the prayer of bail of the juvenile-petitioner as well as the order of the appellate court affirming the rejection order of the J.J.B. are hereby set aside. The juvenile-petitioner, above named, is directed to be released on bail upon furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum-



Special Judge, Nalanda at Bihar Sharif in Children Case No. 3 of
2018 arising out of Chiksaura P.S. Case No. 7 of 2017.

(Vinod Kumar Sinha, J)

sujiit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

