

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.3345 of 2018

Arising Out of PS.Case No. -23 Year- 2016 Thana -MAHILA District- MUNGER

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Rahul Kumar son of Masudan Bind @ Masudan, resident of Village/ Muhalla- Marpakala, Police Station- Dharhara, District- Munger under the natural guardianship of his father Masudan Bind @ Masudan, resident of village- Marpakala, P.s.- Dharhara, District- Munger.

.... Appellant

Versus

The State of Bihar

... Respondent

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Appearance :

For the Appellant : Mr. Sanjiv Kumar Singh, Advocate

For the Respondent : Mr. Satya Narayan Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 09-10-2018

This appeal under Section 101(5) of the Juvenile Justice (Care and Protection of Children) Act, 2015 has been filed for setting aside the order dated 21.07.2018 passed by the Children's Court, Munger in Mahila P. S. Case No. 23 of 2016 whereby the prayer for bail of the appellant has been rejected.

2. The aforesaid Mahila P. S. Case No. 23 of 2016 was registered *inter alia* under Section 376 of the Indian Penal Code and Section 12 of the Protection of Children From Sexual Offences Act, 2012.

3. As per the prosecution case, while the victim, a minor



girl aged 15 years, was sleeping alone in her house at about 2 a.m. in the night on 27.08.2016, the appellant entered into her room and after tying her mouth with cloth forcibly ravished her and fled away. When other family members came to know about the alleged offence, they went to complain to the father of the appellant but they were also abused and misbehaved.

4. In view of the fact that the offence alleged comes in the category of heinous offences and the appellant was found to be a child aged above 16 years and below 18 years, after preliminary assessment with regard to his mental and physical capacity to commit such offence and ability to understand the consequences of the offence and the circumstances in which the offence was committed, the Juvenile Justice Board referred his case to the Children's Court.

5. After being satisfied with the inquiry conducted by the Board, the Children's Court is proceeding ahead with the trial of the appellant as an adult.

6. Considering the conduct of the appellant and other circumstances as also the gravity of the offence, the Children's Court has rejected his application for bail.

7. Learned counsel for the appellant submitted that the order impugned is not sustainable in law as the children below the age of 18 years are entitled to bail even in heinous offences. He



canvassed that the Children's Court is not proceeding with the trial of the appellant in proper manner. He has raised certain issues with regard to framing of charge.

8. However, order framing of charge is not under challenge before this Court. As far as the rejection of the bail of the appellant is concerned, on perusal of the FIR and the order impugned, I see no illegality in the same. The appeal is dismissed, accordingly.

9. However, before parting with this case, I deem it proper to remind the Presiding Judge of the Children's Court, Munger not to record the name of victim in any case involving child or a victim of rape. In the instant case, he has recorded name of the minor victim in the impugned order. It appears that he is unaware of the provision prescribed in Section 23 of the Protection of Children from Sexual Offences Act, 2012, which prohibits disclosure of name, address, vedio-graphs, family details, school, neighbourhood or any other particulars which may lead to disclosure of the identify of victim of sexual offences and contravention of Section 23 leads to upto one year imprisonment. Similar provisions are there under Section 228-A of the Indian Penal Code and person contravening the said provision is liable for punishment upto two years and Section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and any person



contravening the provision is liable for punishment with imprisonment which may extend to six months.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	NA
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