

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1000 of 2018

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1. Anil Chauhan @ Anil Chavhan S/o Indradeo Chauhan @ Indradev Chauhan, R/o Vill.- Kalyanpur, P.S.- Kateya, District- Gopalganj. Through his Father and natural guardian, Indradeo Chauhan @ Indradev Chauhan S/o Late Jagdev Chauhan, R/o Vill.- Kalyanpur, P.S.- Kateya, District- Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Lokesh Kumar Singh, Adv.

For the Respondent/s : Mr. Chandra Bhushan Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

2 24-09-2018

Heard the parties.

2. This revision application has been preferred by the revisionist – petitioner against the order dated 27.03.2018 passed in Criminal Appeal No. 13 of 2018, whereby, the learned 1st Additional Sessions Judge, Gopalganj has affirmed the order Juvenile Justice Board dated 07.02.2018 in Juvenile Enquiry No. 15 of 2018 rejecting the prayer for bail of the petitioner in connection with Kateya P.S. Case No. 266 of 2017 for the offences punishable under Sections 376, 120(B) and 498(A) of the Indian Penal Code.

3. Prosecution case in short is that a complaint case was filed by the complainant/informant, which was sent to local police under Section 156(3) Cr.P.C. for institution of F.I.R. and the case of complainant/informant is that she was married with Upendra



Chauhan six years ago, who died on 10.07.2015 and it is alleged that on 10.08.2015 at about 11.00 hours, while she was sleeping in her room, the petitioner entered into her room and forcibly committed rape with her. In the next morning, when she was going to report the matter to the police station, other co-accused Indradeo Chauhan and Lakhpatiya Devi, who are father- in- law and mother – in- law intervened and stopped her from reporting the matter to police on the assurance of marriage with the petitioner. Thereafter, the petitioner continuously made physical relationship with the informant and when she became pregnant, she was pressurized by the accused persons to abort the pregnancy and when the informant protested, accused persons assaulted her and started torturing her. Lastly, on 01.03.2017, the accused persons assaulted her and ousted her from her matrimonial house.

4. The petitioner's age was assessed and he was found to be aged about 15 years 02 months and 27 days. The prayer for bail of the petitioner has been rejected by the Juvenile Justice Board as well as by the Appellate Court on the ground that he is accused in heinous crime.

5. Learned counsel for the petitioner has assailed the impugned order on the ground that petitioner is a juvenile and the complainant/informant is his sister-in-law (bhabhi) and only with a view to put pressure on him to marry with her, she has filed the false case. As per submission of learned counsel for the petitioner,



the complainant/informant is the mother of four children. It has also been submitted that in view of the mandate under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, a child in conflict with law, is entitled to be released on bail unless the ground(s) referred to in proviso to Section 12(1) of the Act, exists/exist. He has submitted that though it has been mentioned in the impugned order that the petitioner's release is likely to bring him in association with any known criminal and expose him to moral, physical and psychological danger, no material has been referred in the said order, which is the basis for reaching the said conclusion by learned Court below.

6. Having heard both sides, it appears from perusal of the record that complainant/informant is the sister – in-law (*Bhabhi*) of the deceased and she has lodged a case of commission of rape against the petitioner. As per the submission of learned counsel for the petitioner that complainant/informant is the mother of four children, whereas, petitioner is a minor. I find substance in the submission of learned counsel for the petitioner learned Court below has not referred to the material on record, which made him to form an opinion that release of the petitioner and further there is no social investigation report available on record so as to show that the release of the petitioner would likely to bring him in association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat



the ends of justice, as has been provided under Section 12 of the Act, Juvenile Justice (Care and Protection of Children) Act, 2015.

7. Considering the aforementioned facts and circumstances, this revision application is allowed, let the petitioner above named, be released on bail on furnishing bail bonds of Rs. 25,000, (Rs. Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Principal Magistrate, Juvenile Justice Board, Gopalganj in connection with J.E. Case No. 15 of 2018 (arising out of Kateya P.S. Case No. 266 of 2017), with condition that one of the bailors of the petitioner shall be his parent and further the petitioner shall be under the supervision of Probation Officer during the period of bail.

(Vinod Kumar Sinha, J)

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