

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.75 of 2019

Arising Out of PS. Case No.-39 Year-2018 Thana- MAHILA PS District- Buxar

Vishwakarma Mishra S/o Man Mohan Mishra, R/o Village - Badka Gaon,
Man Singh Patti P.S. - Buxar (I) , Distt.- Buxar, under Guardianship of his
father Man Mohan Mishra S/o Ram Bihari Mishra, R/o Village- Badka Gaon,
Man Singh Patti, P.S. - Buxar (T), Distt.- Buxar.

... .. Petitioner.

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Bachan Jee Ojha, Advocate.

For the Respondent/s : Mr. Mukeshwar Dayal, APP

**CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA
JAISWAL**

ORAL ORDER

2 20-05-2019 Petitioner has preferred this revision application under

Section 102 of the Juvenile Justice (Care and Protection of
Children) Act, 2015 against the order dated 26.11.2018 passed
by learned 1st Additional Sessions Judge, Buxar in Cr. Appeal
No. 69 of 2018 by which the order dated 14.08.2018 passed by
the learned Juvenile Justice Board, Buxar in JJB Case No. 613
of 2018 has been confirmed and the prayer of the petitioner for
grant of bail has been rejected.

2. Heard Mr. Bachan Jee Ojha, learned counsel for the
petitioner and Mr. Mukeshwar Dayal, the learned A.P.P. for the
State.

3. Petitioner along with two other accused persons are
said to have intruded into the house of the informant scaling the



wall in the night and after shoving her on the ground committed rape against her.

4. It is submitted by learned counsel for the petitioner that no such occurrence as alleged ever took place. Petitioner has been falsely implicated in the case due to dirty village politics. Petitioner happens to be next door neighbour and there is land dispute between the informant and the petitioner's family. Petitioner is a juvenile in conflict with law. The doctor has not found any injury on any part of the person of the victim or on her private part which completely rules out the occurrence of gang rape. No spermatozoa alive or dead was found on the vaginal swab of the victim. Petitioner has no criminal antecedent and has been languishing in custody since 24.05.2018. Father of the petitioner is ready to take custody and proper care of the petitioner.

5. Learned counsel for the State opposed the prayer of the petitioner.

6. After hearing the learned counsel for the both the parties and on perusal of the materials available on record, I find substance in the contention of the learned counsel for the petitioner.

7. Considering the facts and circumstances stated above, in my opinion, the impugned order is not fit to be



sustained. Hence, the impugned order is set aside. The petitioner above mentioned is directed to be released on bail on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Buxar in Buxar (Mahila) P.S. Case No. 39 of 2018 on the following terms and conditions:-

(i) One of the bailors will be the father of the petitioner.

(ii) Father of the petitioner will produce the petitioner in the court if and when required.

(iii) The petitioner will not indulge in similar or in any other offence.

(iv) in case of his absence for two consecutive dates or in case of violation of the terms of the bail, his bail bond will be liable to be cancelled by the learned Juvenile Justice Board and he will be taken into custody.

8. In the result, this application is allowed.

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(Prakash Chandra Jaiswal, J)

