

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.308 of 2019

Arising Out of PS. Case No.-204 Year-2018 Thana- BARSOI District- Katihar

Md. Tasweer S/o Abdul Wahid Resident of Village- Sheikhpura, P.S.- Balia Belon, District- Katihar, represented through his natural guardian Father namely Abdul Wahid, aged about 46 years son of Late Sk. Dabir, R/o Village-Sheikhpura, P.S.- Balia Belon, District- Katihar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner	:	Mr.Sanjeev Kumar Singh, Advocate
For the State	:	Mr.Pawan Kumar Chaurasia, APP
For the Informant	:	Mr. Vikash Kumar Shukla, Advocate
		Mr. Helal Ahmad, Advocate

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

6 01-08-2019 Heard learned counsel for the petitioner, learned APP
for the State and learned counsel for the informant.

This Criminal Revision has been preferred against the order dated 4.1.2019 passed by the 1st Additional Sessions Judge-cum-Special Judge, Katihar in Criminal Appeal No.46 of 2018, whereby and where under the 1st Additional Sessions Judge-cum-Special Judge, Katihar has dismissed the appeal and affirmed the order dated 03.12.2018 passed by the Juvenile Justice Board, Katihar in Barsoi P.S. case No.204 of 2018 corresponding to G.R. No.3309 of 2018, whereby learned Juvenile Justice Board, Bhojpur at Ara has rejected the prayer for bail of the petitioner in connection with Barsoi P.S. case



No.204 of 2018 corresponding to G.R. No.3309 of 2018, registered under Sections 376, 341, 323, 504, 506 of I.P.C. and Section 4 of POCSO Act.

Allegation is that while the informant was returning from the field, in the way the petitioner intercepted her and on the point of knife he forcibly took her in an under constructed building and committed rape with her.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 5.9.2018 and has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has falsely been implicated in this case.

The report of the Probation Officer is that attitude towards religion and family of child is normal and his present living condition is also normal. Child's opinion/reaction towards discipline in the home is normal. The petitioner studied up to V standard in Prathmik Vidyalaya Sekhpura and left study after Class V. Observations of neighbours towards the child is normal. Child is not a victim of any offence. Child is not used by any gangs or adults or group of adults or has been used for drug peddling. Child has no tendency to run away from home. Child has not been apprehended earlier for any offence. Physical



appearance of the child is normal. Mental condition of the child is normal. In the report, it is also suggested that the benefit of Juvenile Justice Act can be given to the petitioner. Further the report of the Probation Officer does not reveal that there is material to substantiate that the petitioner lacks proper parental care nor there is any conclusive finding by the Probation Officer that in the event of grant of bail the petitioner is likely to go into association of known criminals.

The law requires that reasonable grounds should be there for believing that in the event of grant of bail the petitioner would go into association of any “known criminal” or exposed to moral, physical and psychological danger or the release of the person would defeat the ends of justice. There is no reference of any known criminal nor there is any other substantial material for the conclusion as recorded by the court below.

Hence, the impugned order suffers from failure to exercise jurisdiction vested in law, is result of error apparent on the face of the record and non-consideration of provisions of law. Accordingly, this Criminal Revision is allowed and the order dated 4.1.2019 passed by the 1st Additional Sessions Judge-cum-Special Judge, Katihar in Criminal Appeal No.46 of 2018 and the order dated 03.12.2018 passed by the Juvenile



Justice Board, Katihar in Barsoi P.S. case No.204 of 2018 corresponding to G.R. No.3309 of 2018 are hereby set aside.

Let the petitioner, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of either of his parents on execution of surety bond of Rs.5,000/- (Five Thousand) to the satisfaction of learned Juvenile Justice Board, Katihar in Barsoi P.S. case No.204 of 2018 corresponding to G.R. No.3309 of 2018, with condition that the petitioner will be produced as and when required by the Juvenile Justice Board for co-operation of his inquiry.

(Sudhir Singh, J)

Narendra/-

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