

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.298 of 2019

Arising Out of PS. Case No.-73 Year-2018 Thana- MAHILA PS District- Buxar

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Ganesh Gond @ Ganesh Kumar Gond Son of Girdhari Gond @ Girdhari Prasad Gond and under guardianship of his father Girdhari Gond @ Girdhari Prasad Gond, Resident of Village - Pandeypatti, P.S.- Buxar (Muffasil), Distt - Buxar.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rang Nath Choubey
For the Respondent/s : Mr.Vinod Shanker Modi

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

6 12-09-2019 Heard learned counsel for the petitioner and learned
APP for the State.

This Criminal Revision has been preferred against the order dated 23.01.2019 passed by the Additional District and Sessions Judge 1st-cum-Special Judge, Buxar in Criminal Appeal No.84 of 2018 (J.J.B.), whereby and where under the Additional District and Sessions Judge 1st-cum-Special Judge, Buxar has upheld the order dated 19.11.2018 passed by the Juvenile Justice Board, Buxar in connection with J.J.B. Case No.652 of 2018 arising out of Buxar (Mahila) P.S. case No.73 of 2018, whereby learned Juvenile Justice Board, Buxar has rejected the prayer for bail of the petitioner in connection with Buxar (Mahila) P.S. case No.73 of 2018, registered under



Sections 341, 323, 504, 506, 377/34 of I.P.C. and Section 6 of POCSO Act.

Prosecution case, in short, is that on 11.09.2018 at 2.30 p.m. the daughter of the informant, namely, Sweety Kumari, aged about 5 years, was playing and petitioner called her in his house. Sometimes later, the said girl returned back and complained pain in her anus and when informant opened her paint saw that blood was coming out from her anus and on asking said girl told her mother (informant) that petitioner committed sodomy with her.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 14.09.2018 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 due to land dispute.

The report of the Probation Officer is that mental condition of the petitioner was found normal. The petitioner studied in Class 10. 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 23.01.2019 passed by the Additional District and Sessions Judge 1st-cum-Special Judge, Buxar in Criminal Appeal No.84 of 2018 (J.J.B.) and the order dated 19.11.2018 passed by the Juvenile Justice Board, Buxar in connection with J.J.B. Case No.652 of 2018 arising out of Buxar (Mahila) P.S. case No.73 of 2018 are 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, Buxar in connection with J.J.B. Case No.652 of 2018 arising out of Buxar (Mahila) P.S. case No.73 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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