

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.328 of 2019

Arising Out of PS. Case No.-66 Year-2018 Thana- BANMANKHI District- Purnia

MD. RAHAMAN, aged about 18 years (Male), Son of Md. Majid @ Kari Mian, Resident of Village - Jiwachhpur Bibiya Chakla, P.S.- Banmankhi, Distt.- Purnea, through his father and guardian Md. Majid @ Kari Mian, Son of Md. Latru, Resident of Village-Jiwachhpur Bibiya Chakla, P.S.- Banmankhi, Distt.- Purnea.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner	:	Mr.Praveen Kumar Agrawal, Advocate.
For the State	:	Mr. Harendra Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

4 11-07-2019 Heard learned counsel for the petitioner and learned A.P.P. for the State.

This Criminal Revision application has been preferred against the order dated 05.01.2019, passed by learned Ist Additional Sessions Judge-cum-Special Judge,(Juvenile), Purnea, in Special (Juvenile) Case No. 06 of 2018, (arising out of Banmankhi P.S. Case No. 66 of 2018), whereby and where under learned Ist Additional Sessions Judge-cum-Special Judge, (Juvenile), Purnea, has been pleased to dismiss the case of the petitioner and against the order dated 03.07.2018, passed by the Principal Magistrate, Juvenile Justice Board, Purnea, rejecting the prayer for bail of the petitioner in G.R. No. 1171 of 2018



registered under Section 376 of the I.P.C. pending before the Juvenile Justice Board, Purnea.

The prosecution story, in brief, is that the neighbour of the informant, namely, Md. Rahaman (petitioner) fell in love with the informant since one year on the pretext of marriage. On 06.04.2018 at about 4.00 P.M. in the evening, the petitioner took the informant in the Maize field of Chhote Lal Murmu and committed rape. When the informant asked this petitioner to marry then he refused. In this regard, a Panchayati was also held in the Village-Jiwachhpur in which the petitioner refused to marry the informant and fled away from the Panchayati.

It has been submitted by learned counsel for the petitioner that the petitioner is in custody since 16.04.2018. He has got no criminal antecedent. Charge sheet has been submitted in the present case. There is no allegation of tampering with the witnesses alleged against the petitioner. The petitioner has falsely been implicated in the present case. It is alleged that the petitioner committed rape upon the victim on the pretext of marriage. The date of occurrence is said to be 06.04.2018 as to when F.I.R. was instituted on 14.04.2018. Delay has not been explained by the prosecution. As per the F.I.R., the victim is



alleged to be 18 years old as to when the medical report suggests that she is 16-17 years old. As per the doctor, no mark of injury on her body and private part was found. Hymen is said to be old torn. No spermatozoa was found. The medical evidence does not support the allegation made in the F.I.R.

From perusal of the report of Probation Officer, it is evident that the petitioner is not associated with any Gang and he is not involved in any criminal activity. It is further stated that the petitioner has no intention to run away from his house.

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 learned 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 application is allowed and the order dated 05.01.2019, passed by learned Ist Additional



Sessions Judge-cum-Special Judge,(Juvenile), Purnea, in Special (Juvenile) Case No. 06 of 2018, arising out of Banmankhi P.S. Case No. 66 of 2018 as well as the order dated 03.07.2018, passed by the Principal Magistrate, Juvenile Justice Board, Purnea, in G.R. 1171 of 2018, are set aside.

Let the petitioner, who has already been declared a Juvenile by the learned Juvenile Justice Board, Purnea, be released in favour of either of his parents on execution of surety bond of Rs. 5,000/- (Rupees Five Thousand) to the satisfaction of the learned learned Principal Magistrate, Juvenile Justice Board, Purnea, in connection with G.R. 1171 of 2018 (arising out of Banmankhi P.S. Case No. 66 of 2018) with condition that the petitioner shall be produced as and when required by the Juvenile Justice Board, for co-operation of his enquiry.

(Sudhir Singh, J)

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