

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.402 of 2019

Arising Out of PS. Case No.-43 Year-2018 Thana- BELDOUR District- Khagaria

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ANGAD YADAV @ ANGAD KUMAR, aged about 16 years (Male), Son of Kapil Yadav @ Kapildev Yadav, Resident of Village- Prinagara, P.S.- Beldour, District- Khagaria, through his father and Guardian Kapil Yadav @ Kapildeo Yadav, Son of Sukadev Yadav, Resident of Village- Prinagara, P.S.- Beldour, District- Khagaria.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Petitioner	:	Mr.Praveen Kumar Agrawal, Advocate.
For the Informant	:	Mr. Md. Najmul Hodda, Advocate.
For the State	:	Mr. Manoj Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

5 19-09-2019 Heard learned counsel for the petitioner, learned counsel for the informant and learned counsel for the State.

This Criminal Revision has been preferred against the order dated 04.02.2019, passed by learned Ist Additional Sessions Judge-cum-Special Court, Khagaria in Criminal Appeal No. 24 of 2018, whereby and whereunder learned 1st Additional Sessions Judge-cum-Special Court, Khagaria, has upheld the order dated 31.07.2018, passed by learned Juvenile Justice Board, Khagaria in G.R. Case No. 684A of 2018, arising out of Beldour P.S. Case No. 43 of 2018, whereby learned Juvenile Justice Board, Khagaria has rejected the prayer for bail of the petitioner in connection with Beldour P.S. Case No. 43 of



2018, registered under Sections 376, 302/34 of the IPC and $\frac{3}{4}$ of POCSO Act.

The prosecution story, in brief, is that on 17.03.2018 at 3.00 P.M. the informant's daughter Juli Kumari, aged about 11 years, alongwith Rekha Devi, went to western *Baihar* for cutting grass. Till 5.00 P.M. in the evening, Juli Kumari has not returned to the house. Then informant's wife Lalita Devi went to the house of Rekha Devi and enquired about her daughter Juli Kumari. Upon this, Rekha Devi told that Juli left her companion and went to another Maize field for cutting grass. On direction of Lalita Devi, she went in the Maize field for searching of Juli but not found. She returned to the house and narrated about Juli but not get trace about Juli. The informant alongwith villagers went Maize field then by 6.00 P.M. he found bundle of grass but Juli not found. In that course from the Maize field, four persons, namely, Tippu Yadav, Anil Yadav, Angad Yadav (petitioner) and Mintu Yadav fastly fled away. On suspicion, informant alongwith villagers surrounded the Maize field from all sides. At about 1.00 A.M. in the night, one person on Horse and three persons by foot came near the said Maize field but seeing informant and others, they concealed in dark and whole night unknown four persons tried to take and conceal the dead body.



At 6.00 P.M. in the morning, dead body was found in the Maize field then the informant informed to the police station. The accused persons Tippu Yadav, Anil Yadav, Angad Yadav (petitioner) and Mintu Yadav committed rape upon Juli Kumari and thereafter killed her.

It has been submitted by learned counsel for the petitioner that the petitioner is languishing in custody since 22.06.2018. The petitioner has got no criminal antecedent. Charge sheet has been submitted in the present case. The medical examination report of the victim does not support the allegation made in the F.I.R. The petitioner has been made accused in the present case for oblique reason.

The report of the Probation Officer is that the mental condition of the petitioner is found normal. The petitioner has passed out Matric examination in third division. The involvement of the petitioner in the present case has been found doubtful by the Probation Officer. In the report, it is also suggested that the benefit of Juvenile Justice 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 04.02.2019, passed by learned 1st Additional Sessions Judge-cum-Special Court, Khagaria in Criminal Appeal No. 24 of 2018 and the order dated 31.07.2018, passed by learned Juvenile Justice Board, Khagaria in G.R. Case No. 684A of 2018 arising out of Beldour P.S. Case No. 43 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, Khagaria in connection with G.R. Case No. 684A of 2018, arising out of Beldour P.S. Case No. 43 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.

U.K./-

(Sudhir Singh, J)

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