

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.408 of 2019

Arising Out of PS. Case No.-982 Year-2018 Thana- DEHRI TOWN District- Rohtas

RAHUL KUMAR Son of and under natural guardianship of his father Suresh Singh Resident of Village - Sidhauri, P.S.- Dehri (Dalmianagar), District- Rohtas

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rajesh Kumar Singh
For the Respondent/s : Mr.Md. Ataur Rahman

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

4 08-08-2019 Heard learned counsel for the petitioner and learned counsel for the State.

The present criminal revision has been preferred against the order dated 18.12.2018 passed in J.J.B. Case No. 278 of 2018 by learned Principal Magistrate, Juvenile Justice Board, Rohtas at Sasaram and order dated 18.2.2019 passed in Cr. Appeal (J.J.B.) No. 02 of 2019 by learned 1st Additional Sessions Judge -cum- Children Court, Rohtas at Sasaram by which the bail of the petitioner has been rejected in connection with Dehri (Dalmianagar) P.S. Case No. 982 of 2018 for the offences under sections 363, 376(g) of the Indian Penal Code and 4 and 8 of the POCSO Act, 2012.

The prosecution allegation, in short, is that when the



victim was going to her school, the accused persons took her and committed rape on her.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 19.11.2018 and has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. Charge-sheet has been submitted in the present case. The allegation made in the F.I.R. is denied by the petitioner. There was a love affair between the petitioner and the victim.

The report of the Probation officer shows that the petitioner is a student of Intermediate. The father of the petitioner is farmer and has two *pucca* houses. It is further mentioned in the report the petitioner has not left the school. The income of the family is found sufficient for livelihood. The behaviour of the petitioner was also found to be general. The report does not support the petitioner to be of criminal mind and also not habitual of leaving the house. The petitioner surrendered before the Board. It is reported that the matter is of love affairs and both petitioner and the victim are of same village and due to love affairs, they left the house. The Probation Officer recommended that for better future of the petitioner, he can be granted the opportunity of rehabilitation.



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 the association of any “known criminal” or exposed to moral, physical and psychological danger or the release of the petitioner 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 and 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 orders dated 18.12.2018 passed in J.J.B. Case No. 278 of 2018 by learned Principal Magistrate, Juvenile Justice Board, Rohtas at Sasaram and dated 18.2.2019 passed in Cr. Appeal (J.J.B.) No. 02 of 2019 by learned 1st Additional Sessions Judge -cum- Children Court, Rohtas at Sasaram, 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 the parents on execution of surety bond of Rs. 5,000/- (five thousand) to the satisfaction of learned Principal Magistrate, Juvenile Justice Board, Rohtas at Sasaram in connection with J.J.B. Case No. 278 of 2018 arising out of Dehri (Dalmianagar) P.S. Case No. 982 of 2018 with condition that the petitioner will be produced as and when required by the Juvenile Justice Board for co-operation of his enquiry.

(Sudhir Singh, J)

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