

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.61 of 2019

Arising Out of PS. Case No.-1 Year-2018 Thana- MAHILA PS District- Aurangabad

Md. Mahfooj @ Md. Mahfooj Alam Son of Late Kuddush Shah, resident of village Shekhbigha, P.S. - Obra, District- Aurangabad.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mrs. Leelawati Kumari, Advocate
For the Respondent/s : Mr. Mukeshwar Dayal, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

3 20-05-2019 1. Petitioner has preferred this revision application under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 against the order dated 31.10.2018 passed by learned 1st Additional Sessions Judge, Aurangabad in Cr. Appeal No. 67 of 2018/14 of 2018 (arising out of Mahila P.S. Case No. 01 of 2018) by which the order dated 12.09.2018 passed by the learned Juvenile Justice Board, Aurangabad in G.R. No. 03 of 2018 and J.J.B. Case No. 679 of 2018 has been confirmed and the prayer of the petitioner for grant of bail has been rejected.

2. Heard Mrs. Leelawati Kumari, the learned counsel for the petitioner and Mr. Mukeshwar Dayal, the learned A.P.P. for the State.



3. Petitioner along with four other accused persons are said to have intruded into the house of the informant at night and committed gang rape against her.

4. It is submitted by learned counsel for the petitioner that no such occurrence as alleged ever took place. Petitioner has been falsely implicated in the case due to dirty village politics. In medical examination no injury was found on private part of the victim which rules out the occurrence of gang rape and in said medical examination the victim was found to be major. Allegation levelled against the petitioner is not specific rather general and omnibus in nature. He has no criminal antecedent. As per report of Probation Officer, petitioner has a good character. He has been languishing in custody since 15.3.2018. The informant in her statement recorded in Special Case No.01 of 2018 has denied the occurrence and has stated that at the time of occurrence all of sudden accused Md. Alamgir along with four accused including petitioner intruded into her house and Md. Alamgir advanced the proposal of marriage but on congregation of the local on halla in order to save her reputation she has lodged this case at the instance of local. She has denied any sort of commission of rape by the petitioner and other accused persons against her. Other four



accused persons have been acquitted on trial and petitioner has been languishing in custody in 15.3.2018. His elder brother is ready to take his custody and proper care.

5. Learned counsel for the State opposed the prayer of the petitioner.

6. After hearing the learned counsel for the both the parties and on perusal of the materials available on record, find substance in contention of the learned counsel for the petitioner.

7. Considering the facts and circumstances stated above, in my opinion, the impugned order is not fit to be sustained. The impugned order is set aside. The petitioner abovementioned is directed to be released on bail on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Aurangabad in Mahila P.S. Case No. 01 of 2018, on the following terms and conditions:-

(i) One of the bailors will be the elder brother of the petitioner (minor).

(ii) Elder brother of the petitioner (minor) will produce the petitioner in the court if and when required.

(iii) The petitioner will not indulge in similar or in any other offence.



(iv) in case of his absence for two consecutive dates
or in case of violation of the terms of the bail, his bail bond will
be liable to be cancelled by the learned Juvenile Justice Board
and he will be taken into custody.

8. In the result, this application is allowed.

(Prakash Chandra Jaiswal, J)

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