

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.61 of 2020

Arising Out of PS. Case No.-162 Year-2019 Thana- BHELDI District- Saran

Krishna Ray @ Krishn Kumar Yadav S/o Ram Puja Ray @ Ram Puja Ray @ Durga Puja Ray @ Durga Puja Ray R/o Village- Rasulpur, P.S.- Derni, District- Saran. Under guardianship of his father namely Ram Puja Ray @ Ram Puja Ray @ Durga Puja Ray @ Durga Puja Ray aged about 60, S/o Late Ram Jatan Ray, R/o Village- Rasulpur, P.S.- Derni, District- Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Gagandeo Yadav, Advocate
Mr. Ravi Prakash, Advocate
For the Respondent/s : Mr. J.N. Thakur, APP

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 04-06-2020 The matter has been taken up through virtual Court proceeding.

Heard Mr. Gagandeo Yadav, learned counsel for the petitioner and Mr. Uma Shankar Prasad Singh, learned APP for the State.

The present application has been preferred on behalf of the petitioner for setting aside the order dated 07.12.2019 passed by learned District & Sessions Judge Ist -cum- Juvenile Justice Court, Saran at Chapra in Criminal Appeal (Juvenile) No. 38 of 2019 as well as order dated 13.09.2019 passed by Juvenile Justice Board, Saran at Chapra in J.J.B. Case No. 990 of 2019, arising out of Bheldi P.S. Case No. 162 of 2019 registered for the offences punishable under



Sections 376(D) of the Indian Penal Code and Sections 4/6/8 of Protection of Children from Sexual Offences Act, 2012, whereby prayer for bail of the petitioner, being juvenile, has been rejected, hence, consequential prayer for bail has been made.

The prosecution case, as per the written report of Bhagmani Kumari submitted to the Station House Officer, Derni Police Station, is to the effect that on 28.06.2019 at 9.00 A.M., the informant went to Ramawtar High School, Basatpur, Shobhepur to take mark sheet of Intermediate and C.L.C. and while returning back, on the way, 4-5 persons forcibly took the informant on a four wheeler. However, she identified only co-accused Rana Pratap Singh and, on the way, out of 5, 3 persons ravished her and thereafter, she got unconscious, then they threw her on the pavement of Basant Garkha Road and thereafter, on 29.06.2019, she came to the police station and written report was submitted.

It is submitted by learned counsel for the petitioner that the petitioner is not named in the FIR and only on the basis of confessional statement of co-accused Rana Pratap Singh, the name of the petitioner sprang up as, one of the associates. There is no specific accusation of ravishing the informant by the petitioner. The learned Juvenile Justice Board has declared the



petitioner as juvenile vide order dated 05.08.2019, as the petitioner has been found aged 16 years 8 months and 3 days on the date of alleged occurrence. The prayer for bail of the petitioner was rejected by the Juvenile Justice Board as well as Appellate Court with non-application of mind. There is no material on record to suggest that the petitioner has any chance to come with the association of known criminal or expose to moral, physical or psychological danger or his release will defeat the ends of justice. It is further submitted that the victim, in her statement recorded under Section 164 Cr.P.C., has not named the petitioner. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Learned APP for the State submits that the name of the petitioner sprang up on the confession of co-accused as one of the associates in commission of offence of ravishing a minor girl (the victim).

Considering the fact that both the orders passed by the learned Juvenile Justice Board and the Appellate Court do not suggest that the petitioner has any criminal antecedent or the report of Probation Officer or the Child Welfare Officer suggest that the atmosphere in the house of the petitioner is not as such



that he cannot be released. Merely because he had talked with the other co-accused through mobile phone, that does not indicate that there is any chance to bring the petitioner into association of known criminals. Considering the fact that for grant of bail in exercising jurisdiction under Section 12 of the Juvenile Justice Act is a rule and the only exceptions are when the juvenile likely to go into association of known criminal or expose to moral, physical or psychological danger or his release will defeat the ends of justice.

In the circumstances, the order dated 13.09.2019 passed by learned Juvenile Justice Board and judgment dated 07.12.2019 passed by learned Additional District & Sessions Judge Ist -cum- Juvenile Justice Court, Saran at Chapra are, hereby, set aside and the petitioner is directed to be released for the present provisionally for a period of three months on furnishing one surety to the satisfaction of the learned Juvenile Justice Board, Saran at Chapra in connection with J.J.B. Case No. 990 of 2019, arising out of Bheldi P.S. Case No. 162 of 2019.

However, in view of the present pandemic COVID-19, it will be open for the learned Court below to accept the bail bond upon furnishing an undertaking by the surety, on photo copy of his Aadhar Card, to the effect that he is



ready to become the bailor of the petitioner which may be transmitted by such surety to the learned Court concerned through e-mode.

The provisional bail of the petitioner will be confirmed by the learned Court below within three months on furnishing bail bond of Rs.10000/- (ten thousand) with two sureties, including one surety given at the time of provisional bail, of the like amount each to the satisfaction of the learned juvenile Justice Board, Saran at Chapra in connection with J.J.B. Case No. 990 of 2019, arising out of Bheldi P.S. Case No. 162 of 2019.

The learned Court below is at liberty to further extend the period of provisional bail if the lockdown is not over in next three months.

Accordingly, the revision application is allowed.

The Juvenile Justice Board will take monthly report from the Police as well as from the Probation Officer with regard to the conduct and the care being taken by the family of the juvenile.

(Dinesh Kumar Singh, J)

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