

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.108 of 2020**

Arising Out of PS. Case No.-517 Year-2018 Thana- BARACHATTI District- Gaya

Vikram Paswan @ Vikram Kumar, Son of Surendra Paswan, through his
father and Natural Guardian, namely Surendra Paswan, Resident of Village -
Diwaniya, P.S.- Barachatti, Dist.- Gaya. Petitioner

Versus

The State of Bihar Respondent

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar, Advocate

For the Respondent/s : Mr.Harendra Prasad, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 07-09-2020 Heard learned counsel for the petitioner and Mr.
Harendra Prasad, learned A.P.P. for the State.

Petitioner in the present case is setting aside the order dated 25.11.2019 passed by Special Judge (Children Court), Gaya in Criminal Appeal (Juvenile) No. 82 of 2019 (C.I.S.) and order dated 21.09.2019 passed by Juvenile Justice Board, Gaya in Barachatti P.S. Case No. 517 of 2018 (G.R. No. 1624 of 2018) pertaining to Misc. Case No. 51 of 2019 whereby prayer for bail of the petitioner has been rejected in Barachatti P.S. Case No. 517 of 2018 registered for the offences under Sections 376/120 (B) of the Indian Penal Code.

Learned counsel for the petitioner submits that on the alleged date of occurrence i.e. on 28.07.2018 the petitioner was aged about 16 years 6 months only hence, he has been declared juvenile.



The allegation against the petitioner is that he had kept the victim girl in a hotel for four days and had committed repeated rape on her. Later on the girl set herself on fire and died.

Learned counsel for the petitioner submits that the petitioner being a juvenile is in the observation home for last one year and his father is ready to furnish undertaking.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner and submits that though this Court has always been taking a view that the family union of the juvenile must be preferred over the institutional home but this would not be a fit case and is not in the interest of the juvenile also to grant him bail. In this respect learned counsel has relied upon proviso to Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. It is submitted that he has got criminal antecedent and the social investigation report gave a very dismal picture of his social condition and the family environment and there is every chance if he is released on bail he would be again falling in the bad company and would commit similar kind of heinous crime.

Having regard to the facts and circumstances of the case, this Court has noticed that the petitioner is involved in commission of heinous offence, on the said date he was more than 16 years of age, hence in terms of Section 15 of the Act his preliminary assessment of mental condition would be required for



considering whether the records be transferred to the Children Court for trial like an adult. The allegations are heinous in nature, further petitioner has criminal antecedent and the social investigation report shows that his parents are not able to give him proper atmosphere and take care of him and he is in bad company as a result of which he gets involved in the crime.

The Probation Officer has also stated that regarding rehabilitation the family of the petitioner is unable to develop a positive thought in the mind of the petitioner.

In such circumstance, the best interest of the juvenile would be served by keeping him in the institutional home itself for the present during pendency of the trial.

This application is dismissed.

If the records have been transferred to the Children Court, let the trial be expedited.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

