

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.302 of 2020

Arising Out of PS. Case No.-279 Year-2019 Thana- KHAGARIA District- Khagaria

MD. AFTAB @ HEERA, S/o Md. Razzak, R/o village - Jalkaura, P.S. - Gangaur, District - Khagaria, through his natural Guardian mother Shaiyada Khatoon, aged about 50 years (Female), W/o Md. Razzak, R/o village - Jalkaura, P.S. - Gangaur, District - Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

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

For the Respondent/s : Mr. Shyam Kumar Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 08-07-2020 The matter has been taken up through virtual Court proceeding.

Defects, if any, be removed within fifteen days of the start of the physical Court.

Heard learned counsel for the parties.

The petitioner is husband of the victim of dowry death and is accused in connection with Khagaria (Gangaur) P.S. Case No. 279 of 2019. Petitioner was declared juvenile by the learned Juvenile Justice Board on 24.07.2019 relying on the school certificate issued by Bihar School Examination Board. However, prayer for bail was refused by the Juvenile Justice Board considering the nature and seriousness of the allegation and social resentment against the act of the petitioner. The learned appellate court also did not interfere with the order of refusal of bail stating therein that grant of bail would defeat the ends of justice.



Learned counsel for the petitioner submits that a bare perusal of the FIR would reveal that there is no allegation of torture for non-fulfillment of dowry demand soon before death. Moreover, seriousness of the allegation cannot be a ground to refuse the prayer for bail under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 unless the case is covered by the proviso to that section.

Evidently, both the courts below have not considered the mandate of law as contained in Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. The refusal is permissible only if there is material to substantiate that the case is covered by the proviso to Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and not otherwise. Hence, impugned orders are hereby set aside and this application is allowed.

Let the petitioner, above named, be released on furnishing surety bond by either of the parents giving undertaking that he/she shall keep proper upkeep of the petitioner and shall fully cooperate in the inquiry/trial in connection with Khagaria (Gangaur) P.S. Case No. 279 of 2019.

(Birendra Kumar, J)

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