

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.343 of 2020**

Arising Out of PS. Case No.-484 Year-2019 Thana- PAROO District- Muzaffarpur

=====

X1

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

=====

Appearance :

For the Petitioner : Mr. Sunil Kumar, Advocate

For the Respondent : Mr. Rajesh Kumar, APP

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

14-10-2020

Heard learned counsel for the petitioner and learned
counsel for the State via video conferencing.

2. Though the petitioner has given full description in
the application, it would be inappropriate to disclose his identity
in view of the statutory provisions prescribed under Section 74
of the Juvenile Justice (Care and Protection of Children) Act,
2015 (for short ‘the Act of 2015’). He is being referred to in the
cause title as X1.

3. Registry while uploading the order on the website
shall also ensure that the cause title is reflected in similar
manner.

4. This revision application under Section 102 of the



Act of 2015 has been preferred by the petitioner for setting aside the order dated 06.02.2020 passed by the learned 1st Additional District and Sessions Judge-cum-Special Judge, POCSO Act, Muzaffarpur in Cr. Appeal No.10 of 2020 arising out of Paroo P.S. Case No.484 of 2019 registered under Sections 66-E, 67-A of the Information and Technology Act and Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') whereby the appeal challenging the order dated 23.01.2020 passed by the Juvenile Justice Board, Muzaffarpur in Paroo P.S. Case No.484 of 2019 has been rejected.

5. By the aforesaid order dated 23.01.2020, the Juvenile Justice Board, Muzaffarpur has rejected the prayer for bail of the petitioner by passing a cryptic order that the release of the petitioner would defeat the ends of justice and would not be in the interest of the child.

6. The appellate court rejected the appeal on the ground that the allegation against the petitioner is that he circulated obscene video prepared by co-accused on WhatsApp group.

7. As per the first information report instituted on the basis of self-statement of one Sunil Kumar, Sub Inspector of



Police posted at Kathaiya Police Station, he received information from his superior officials that an objectionable video in the name of one J.S. Rai was made viral. Under the order of superior officer, he deputed local chowkidar and spy to verify the information and inform the District Transport Officer, Muzaffarpur for verification of the motorcycle, which was seen in the viral video and proceeded to enquire into the matter along with the police party at 05:00 pm on 14.11.2019 and reached in Parohan village where the local chowkidar informed that there is no person in the name of J.S. Rai in Parohan village. He further stated that a middle aged person seen in the video is P.S. Rai but the girl seen in the video could not be traced. Thereafter, he informed the superior officer and the SHO, Jaintpur Police Station. The police party reached the village of the suspect P.S. Rai and found his house locked and the local people informed that he is out of station. Thereafter, the police could get clue of one accused A.K., who was arrested and, on interrogation, he disclosed that he had received the video from the petitioner in a group, which he has deleted after watching. Thereafter, he proceeded to the house of the petitioner along with the accused A.K. The petitioner tried to ran away, but he was caught by the police. He disclosed that the video was shown to him on his



WhatsApp group by one A.K. Sah and the same video was sent by him to another group. Thereafter, accused A.K. Sah was apprehended, who disclosed that the video was prepared by one V.K. through his mobile near canal and after watching the video, he deleted the same. On this information, V.K. was caught by the police party and he disclosed that during *Dashahara*, on *Saptami*, his friend M.K. saw a motorcycle parked at an isolated place and when they stopped and watched nearby, they saw a middle aged person with a minor girl in objectionable condition in the bush and then they interrogated them and recorded video of the girl in objectionable position.

8. It is contended by the learned counsel for the petitioner that the petitioner was declared a juvenile in conflict with law vide order dated 24.12.2019 by the Juvenile Justice Board, Muzaffarpur. As per the admitted case of the prosecution, he was neither instrumental in the alleged video recording nor he had circulated the objectionable video. He contended that the video was recorded by the accused V.K. and M.K. and it was the accused V.K., who had sent it first to A.K. Sah and A.K. Sah has been granted regular bail by the court of 1st Additional Sessions Judge, Muzaffarpur vide order dated 18.12.2019. Similarly, another accused A.K., who is also a



minor, has been granted bail in appeal by the Special Judge, POCSO Act, Muzaffarpur vide order dated 05.02.2020 passed in Cr. Appeal No.9 of 2020. He further contended that the accused V.K. has also been granted bail by a Bench of this Court vide order dated 24.06.2020 passed in Cr. Misc. No.4577 of 2020. He contended that the father of the petitioner as well as his lawful guardian had undertaken that he will take due care of the petitioner and ensured that he will keep him away from any anti-social elements in future.

9. Learned counsel for the State opposes the application for bail of the petitioner. He contended that the petitioner had actively participated in commission of the offence. According to him, it was the petitioner, who had circulated the objectionable video to different WhatsApp group.

10. Having heard the parties and perused the materials on record, I am of the opinion that the order impugned cannot be sustained due to various reasons; firstly, because the Juvenile Justice Board had passed a cryptic order while rejecting the prayer for bail of the petitioner, secondly, no reason has been assigned as to how the release of the petitioner would defeat the ends of justice; and thirdly, the Board did not assign any reason as to how keeping the petitioner in



institutional care would be in the interest of the petitioner. Further, when the said order was challenged in appeal, the appellate court rejected the appeal stating therein that it did not find any infirmity in the order passed by the Juvenile Justice Board.

11. It is repeatedly held by this Court that seriousness of the offence alleged cannot be made a ground for rejecting the bail under the Act of 2015.

12. Even, looking at the allegation, the court below ought to have considered that the other co-accused against whom serious allegations were made have been granted bail by the court below or by this Court.

13. For the reasons recorded hereinabove, the impugned order dated 06.02.2020 passed by the learned 1st Additional District and Sessions Judge-cum-Special Judge, POCSO Act, Muzaffarpur in Cr. Appeal No.10 of 2020 is set aside. Consequently, the order dated 23.01.2020 passed by the Juvenile Justice Board, Muzaffarpur in Paroo P.S. Case No.484 of 2019 is also set aside.

14. The petitioner is directed to be released on bail on furnishing bail bond of Rs.10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of Juvenile



Justice Board, Muzaffarpur in connection with Paroo P.S. Case No.484 of 2019.

15. The revision application stands allowed.

16. Since the court proceedings are being conducted through virtual mode and normal court functioning has not been restored till date, it is considered appropriate to adopt the following procedure for communication of the present order:-

- (i) The order, which has been dictated during the course of proceeding of the virtual court, shall be communicated to me on my e-mail by the Senior Secretary.
- (ii) The corrected copy of the order shall be transmitted by me from my e-mail id to the Senior Secretary, which shall be treated to be an authentic copy of the order passed by this Court in the present proceeding.
- (iii) Hard copy of the order duly signed by me shall be preserved in my residential office for documentation and future use, if any.
- (iv) Let a copy of the order be sent to Mr. Sunil Kumar, learned counsel for the petitioner also on his e-mail.
- (v) Let steps be taken by the Senior Secretary/registry



for up-loading of the present order without compromising with the norms of social distancing.

(Ashwani Kumar Singh, J.)

sanjeet/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	14.10.2020
Transmission Date	16.10.2020

