

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.708 of 2019

Arising Out of PS. Case No.-11 Year-2019 Thana- MAHILA P.S. District- Siwan

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KUNDAN KUMAR CHAUDHARY @ KUNDAN KUMAR YADAV @
KUNDAN KR. CHUDHRY @ KUNDAN YADAV Son of Parma Chaudhary
Resident of Village - Balchand Hatta, P.S.- Siwan Muffasil, Dist.- Siwan
Under the Guardianship of His Brother Ritesh kumar

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ajay Kumar Tiwary, Advocate.
For the Respondent/s : Mr.Akshay Lal Pandit, APP.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 22-05-2020 This matter has been taken up through Video Conferencing.

Heard the parties.

This is an application under Juvenile Justice (Care and Protection of Children) Act, 2015, challenging the order of lower appellate court dated 21.05.2019 passed in Cr. Appeal No. 26 of 2019 as well as order dated 26.04.2019 passed by the Juvenile Justice Board, Siwan in Juvenile Trial No. 115 of 2019 arising out of Siwan Mahila P.S. Case No. 11 of 2019 registered under Section 376(DB) of the Indian Penal Code and Sections 4, 6 and 8 of the POCSO Act, whereby both the Courts below refused the prayer for bail to the petitioner.

Allegation against the petitioner who is a juvenile is that he along with others ravished to a minor girl aged about 2 ½



years.

Learned counsel for the petitioner submits that there is no eye witness of the occurrence. There is no medical report as the victim was never medically examined nor victim was capable to support the allegation against anyone. Considering the aforesaid facts, co-accused Balmiki Sah @ Balmiki Kumar was already allowed by a co-ordinate Bench of this Court in Cr. Revision No. 776 of 2019.

Considering the lack of material on the record and non-consideration of mandate of law by the Courts below that bail to a juvenile is a right and refusal is an exception, orders dated 21.05.2019 and 26.04.2019 passed by both the Courts below are hereby set aside and it is directed that the petitioner, who is in custody since 02.02.2019, be released at once on execution of bond by either of the parents of the petitioner giving undertaking that he/she shall keep proper care and upkeep of the petitioner and shall fully cooperate with the investigation/trial against the petitioner.

(Birendra Kumar, J)

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