

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.776 of 2019

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

BALMIKI SAH @ BALMIKI KUMAR Son of Ram Singar Sah, Under the Guardianship of his Father Resident of Village - Balchand Hatta, P.S.- Siwan Muffasil, Dist.- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Raghav Prasad
For the Respondent/s : Mr.Ram Sevak Choudhary

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

4 10-01-2020 Heard the learned counsel for the petitioner and the learned A.P.P. for the State.

The petitioner seeks regular bail in connection with Siwan Mahila P.S. Case No. 11 of 2019 for the offence registered under Sections 376(D.B.) of the Indian Penal Code and Sections 4, 6 and 8 of the POCSO Act.

The allegation is regarding the petitioner and other co-accused persons having committed rape upon the victim child, as has been reported by the informant of this case on the basis of information given to them by the victim child.

The learned counsel for the petitioner has submitted that as far as the petitioner is concerned, he is stated to be 11-12 years of age and is a juvenile. It is further submitted that neither in the statement made before the Police nor in her statement



made under Section 164 Cr.P.C., before the learned Magistrate, the victim child is stated to have disclosed about the complicity of the petitioner. It is further submitted that a bare perusal of the report submitted by the concerned doctor would show that no injury or abrasion or laceration has been found over the private part of the victim child. It is also submitted that the doctor has opined that there is no evidence of sexual assault. It is also submitted that the parents of the petitioner undertake the responsibility of keeping the petitioner in good atmosphere and ensuring rehabilitation of the petitioner according to the prevailing social scenario. Lastly, it is submitted that the petitioner is having a clean antecedent and is languishing in custody since 11.02.2019.

Having regard to the facts and circumstances of the case, this Court prima facie is of the opinion that it might be possible that the petitioner would have engaged in attempt to commit rape but the materials on record especially the medial report does not corroborate the factum of actual rape. Hence, this Court is of the view that since the petitioner is a juvenile, it would be in the interest of justice to grant regular bail to the petitioner herein and not prolong his incarceration in the remand home. Accordingly, the present revision petition is



allowed and the order dated 10.05.2019 passed in Criminal Appeal No. 21 of 2019, by the learned Additional Sessions Judge-I-cum-Special Judge, Siwan is set aside.

Consequently, the petitioner herein is directed to be released from the Remand Home on his furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Siwan in connection with Siwan Mahila P.S. Case No. 11 of 2019, J. Tr. No. 41 of 2019 subject to the condition that :-

One of the bailors of the petitioner shall be his father/ mother who at the time of filing of the bonds, shall also give an undertaking that he/ she will take good care of the petitioner and in case, petitioner does not act as per his/her advice, he/ she shall report the matter to the officer-in-charge of the concerned police station and further during period of bail, the petitioner will be under the supervision of concerned Probation Officer.

This revision application stands allowed on the aforesaid terms.

(Mohit Kumar Shah, J)

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