

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Appeal (SJ) No.4156 of 2019

Neeraj Kumar, aged about 18 years, son of Birendra Ray, resident of village-Nagra
Baswaria Tola, Police Station Khaira, District- Saran at Chapra

.....

Appellant

Versus

The State of Bihar

.....

Respondent

Appearance

For the Appellant : Mr. Radha Mohan Singh, Advocate

For the State : Mr. Binod Bihari Singh, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

5 24.08.2020

Heard learned counsel for the petitioner and learned
A.P.P for the State through video conferencing.

The instant appeal has been preferred by the appellant
for setting aside the order dated 30.7.2019 passed by the learned
Additional District and Sessions Judge 1st -cum- Special Judge,
Children Court, Saran at Chapra in Children Court Case no.9 of
2019 arising out of Garkha P.S. Case no.121 of 2018 registered
under sections 376D, 342, 323, 365 and 367 of the Indian Penal
Code and sections 4 and 6 of the POCSO Act whereby the bail
of the appellant was rejected.



As per allegation in the F.I.R., while the informant along with her mother were picking Mahua, it is stated that the accused persons came on a white coloured Bolero vehicle. Two persons forcibly took her on the vehicle and thereafter it is stated that three of the accused persons committed rape on her. She states that in the communication between them, they were taking the name of one of the accused as Chandan.

It is submitted by learned counsel for the appellant that the appellant was a juvenile and the learned Court of the Additional District Judge- 1st, Chapra by order dated 30.5.2019 (Annexure-3) on enquiry, found and declared the appellant to be a juvenile on the date of occurrence. It is further submitted on merits that the appellant is not named in the F.I.R. On information having been received, the police apprehended co-accused Chandan and it is alleged that it is on the confessional statement of the said Chandan that the name of the appellant transpired as one of the assailants. It is submitted that the appellant has no criminal antecedent and is in custody since 4.4.2018.

The prayer for bail is opposed by learned A.P.P. appearing for the State who submits that there is direct allegation against the appellant and the offence alleged is heinous in nature.



In the instant appeal, the case diary as also report from the Probation Officer, Saran at Chapra had been called for and the same has been received. On going through the report it transpires that the Probation Officer is of the opinion that the father of the appellant is ready to take him under his guardianship and in his opinion there would not be any difficulty in resettlement of the appellant.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case including the report of the Probation Officer concerned, the Court is inclined to allow the instant appeal. The appeal stands allowed. The appellant is directed to be enlarged on bail in connection with Children Court Case no. 9 of 2019 arising out of Garkha P.S. Case no. 121 of 2018 on furnishing bail bond of Rs.10,000/- by the father of the appellant with two sureties of the like amount each to the satisfaction of the learned Additional District and Sessions Judge 1st-cum-Special Judge, Children Court, Saran at Chapra.

(Partha Sarthy, J)

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