

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1170 of 2019

Arising Out of PS. Case No.-39 Year-2019 Thana- SAHEBPUR KAMAL District- Begusarai

AAYUSH KUMAR@ KAILU MAHTO Son of Anil Kumar Singh @ Anil Mahto Through the Legal and Natural Guardian Mother Nilam Devi aged about 45 years, Wife of Anil Kumar Singh @ Anil Mahto, Resident of village- Chauki, Ward No. 06, P.S.- Sahebpur Kamal, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Singh, Advocate.

For the Respondent/s : Mr. Yogendra Kumar Singh, APP.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

5 10-12-2020 Heard the parties in virtual Court.

The petitioner is an accused in connection with Sahebpur Kamal P.S. Case No. 39 of 2019 registered under Section 376 of the Indian Penal Code and Section 4 of the POCSO Act with allegation that the petitioner ravished to the 7 years old daughter of the informant.

Petitioner was declared juvenile by the Juvenile Justice Board, however prayer for bail was refused by the Board on 23.04.2019 saying that in the event of release of the petitioner, there is chances, of the petitioner, going into the company of unsocial elements and there is danger of moral, physical and psychological exposure of the petitioner. The Juvenile Justice Board had considered the report of the officer in-charge of the police station.



The learned lower appellate court agreed with the reasoning of the Juvenile Justice Board and refused the prayer for bail.

Both the orders dated 23.04.2019 passed in J.J.B. Case No. 51 of 2019 and order dated 04.07.2019 passed in Cr. Appeal (Bail) No. 60 of 2019 by learned A.D.J.-I, Begusarai are under challenge in this application.

The law is well settled that prayer for bail to a juvenile shall be considered in the light of provisions under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and a juvenile is entitled for bail irrespective of the seriousness of the allegation unless his case is covered by the proviso to Section 12(1) which reads as follows:

Provided that such person shall not be so released (a) if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or (b) expose the said person to moral, physical and psychological danger or (c) the person's release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision".



The term “reasonable grounds for believing” implies that there must be material on the record for such belief and name of the criminal should be there in whose association the petitioner would go in the event of release.

None of the courts below have discussed about the material on the basis whereof they form such belief. Likewise there must be material to substantiate that in the event of release, the petitioner would be in danger of moral, physical and psychological exploitation. One more ground is that release of the petitioner would defeat the ends of justice.

If the courts below are relying on any of the aforesaid grounds, being available, it must discuss the circumstances that led to such decision of refusal of prayer for bail.

Since none of the courts below have applied their judicial mind consistent with the law, both the orders dated 23.04.2019 and 04.07.2019 are hereby set aside and the matter is remitted back to the Juvenile Justice Board to pass order according to law with reasons.

Accordingly, this criminal revision stands allowed.

(Birendra Kumar, J)

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