

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1447 of 2019

Arising Out of PS. Case No.-134 Year-2019 Thana- KONCH District- Gaya

NANHAKU KUMAR @ RANJAY KUMAR Son of Jogendra @ Yogendra Singh Resident of Village - Pradhana, P.S.- Konch, District - Gaya, under the guardianship of Savita Devi, Wife of Jogendra Singh @ Yogendra Singh Resident of Village - Pradhana, P.S.- Konch, District - Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Manish Kumar No2
For the Respondent/s : Mr.Nawal Kishore Prasad

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

4 02-09-2020 Due to COVID-19 Pandemic, the matter is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading 'For Orders' under the orders of Hon'ble the Chief Justice.

Heard learned counsel for the petitioner and learned counsel for the State.

This Criminal Revision application has been preferred against the judgment dated 24.09.2019 passed by learned Special Judge (Children Court), Gaya in Cr. Appeal (Juvenile) No. 66 of 2019 (C.I.S.) whereby and whereunder the learned Special Judge has upheld the order dated 20.08.2019 passed by learned J.J.B., Gaya in G.R. No. 1913/19, Mis. No. 178/19, arising out of Konch P.S. Case No. 134/2019, whereby learned



Juvenile Justice Board, Gaya has rejected the prayer for bail of the petitioner in connection with Konch P.S. Case No. 134/2019 registered under section 306 of the I.P.C.

The prosecution story, in brief is that the accused-petitioner committed rape on the sister of the informant upon which Konch P.S. Case No. 08 of 2019 was registered. Thereafter, the sister of the informant started remaining worried and committed suicide by pouring K. oil on herself.

It has been submitted on behalf of the petitioner that prior to the institution of the present case, Konch P.S. Case No. 8/2019 was instituted for an offence under section 376 I.P.C. and other allied sections of the Indian Penal Code. In connection with the aforesaid case, the petitioner was taken into custody on 06.01.2019. The petitioner was declared juvenile by the J.J.B, Gaya. During the pendency of the said case, the victim girl tried to commit suicide on 21.02.2019 and during the treatment, she succumbed to the injury on 24.03.2019. Thereafter, the present case was instituted on 19.04.2019 in respect of the occurrence taking place on 21.02.2019 for an offence under section 306 IPC on the basis of fardbeyan made by the brother of the victim on 24.03.2019. The J.J.B, Gaya by order dated 18.06.2019 granted bail to the petitioner in connection with Konch P.S. Case



No. 8/2019 taking into account that the statement of the victim was not recorded and the victim was three years elder to the petitioner. It is further submitted that at the relevant time when the victim committed suicide, the petitioner was in judicial custody and in the said situation, the petitioner cannot be said to be abettor in respect of the present case which relates to offence under section 306 I.P.C.

A report was called for from the Probation Officer in respect of social investigation in which the character of the petitioner has been intimated to be normal. The petitioner is a student of Class-VIII. His majority of friends are educated and of the same age group. Further the report of the Probation Officer does not reveal that there is material to substantiate that the petitioner lacks proper parental care nor there is any conclusive finding by the Probation Officer that in the event of grant of bail, the petitioner is likely to go into association of known criminals.

The law requires that reasonable grounds should be there for believing that in the event of grant of bail, the petitioner would go into association of any 'known criminal' or exposed to moral, physical and psychological danger or the release of the person would defect the ends of justice.



Hence, the impugned order, suffers from failure to exercise jurisdiction vested in law, is result of error apparent on the fact of the record and non-consideration of provisions of law. Accordingly, this Criminal Revision application is allowed and the order dated 24.09.2019 passed by learned Special Judge (Children Court), Gaya in Cr. Appeal (Juvenile) No. 66 of 2019 and the order dated 20.08.2019 passed by learned J.J.B., Gaya in G.R. No. 1913/19, Mis. No. 178/19, arising out of Konch P.S. Case No. 134/2019, are set aside.

Let the petitioner, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of either of his parents on execution of surety bond of Rs. 5,000/- (five thousand) to the satisfaction of learned Principal Magistrate, J.J.B., Gaya in G.R. No. 1913/19, Mis. No. 178/19, arising out of Konch P.S. Case No. 134/2019 with the condition that the petitioner will be produced as and when required by the Juvenile Justice Board for co-operation of his enquiry.

(Sudhir Singh, J)

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