

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No. 123 of 2021

Arising Out of PS. Case No.-15 Year-2020 Thana- MAHILA District- Munger

SIXER PASWAN S/o Birendra Paswan @ Brajnandan Paswan R/o village-
Gauripur, P.S.- Saphiyasarai, District- Munger, under Guardianship and
natural Guardian of Birendra Paswan aged about 54 years, S/o Jagdish
Paswan, R/o village- Gauripur, P.S.- Saphiyasarai, Distt.- Munger

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rabi Bhushan, Adv

For the Respondent/s : Ms. Rina Sinha, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 23-08-2021

In view of sudden resurgence of COVID – 19
infection there is limited functioning of the High Court and
therefore the matter has been listed for consideration through
virtual mode.

Heard learned Counsel for the appellant and the
learned APP for the State.

This Court would expect that the appellant's
Counsel would honour his undertaking in the instant
proceedings regarding supply of requisite court fee etc. within
two weeks from the date he is called upon to do so by the
office.

The impugned order dated 27.11.2020 has been
passed by the learned A.D.J.- 1st, POCSO, Munger in J.J.B No.
49/2020. Hence, an appeal is maintainable before this court in



view of provisions of Section 101(5) of the Juvenile Justice (Care and Protection of Children) Act, 2015. However, a criminal revision has been filed under Section 53 of the Juvenile Justice (Care and Protection of Children) Act, 2000 on 8.2.2021 This application is being treated as an appeal.

The appellant is an accused in connection with Mahila P.S. Case no. 15/2020 G.R. No. 1037/20, registered under Section 376D of the Indian Penal Code.

There is an allegation that while the informant has gone out, the appellant along with two others has caught her hand. The informant is alleged to be 15 years old. While the appellant and another caught the hands of the informant, co-accused Ankit Paswan has committed rape.

Learned counsel for appellant submits that the prosecution case stands belied by statement of the prosecutrix recorded under Section 164 Cr.P.C., wherein she has not alleged that rape has been committed at all. The appellant is a juvenile and in such circumstances where the prosecution does not allege any rape against the appellant, he is in custody since 10.6.2020. He is stated to be on bail in Saphiya Sarai P.S. Case no. 130/2017.

Learned APP has submitted that the appellant was aged above 16 years and the allegation is of a heinous crime. In view of the 2015 amendment, the appellant's treatment is



categorized to be different or juvenile's below 16 years.

Referring to the Social Investigation Report, however, she is not in a position to point out that the exceptions contemplated under Section 12 of Juvenile Justice (Care and Protection of Children) Act, exists so as to form the basis of an opinion that the appellant is likely to come in contact with known criminals or that he is likely to be exposed to moral physical danger so as to warrant his further custody. In absence of such material Section 12 contemplates the juvenile in conflict with law be released on bail.

Having considered all facts and circumstances, this Court for the purposes of grant of bail is inclined to accept the submissions advanced by the appellant's counsel. The above name appellant, a juvenile, shall be released on bail on his furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Special Judge (Children Court)-cum-A.D.J.-I, POCSO, Munger, in connection with Mahila P.S. Case no. 15 of 2020 (J.J.B No. 49 of 2020).

In this result, the appeal is allowed and the impugned order dated 27.11.2020 passed in Mahila P.S.



Case no. 15/2020 G.R. No. 1037/20 (J.J.B. No. 49/2020)
passed by the learned A.D.J.- 1st, POCSO, Munger, is set
aside.

(Madhuresh Prasad, J)

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