

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL APPEAL (SJ) No.1528 of 2021**

Arising Out of PS. Case No.-317 Year-2019 Thana- BODHGAYA District- Gaya

AKHILESH KUMAR @ AKHILESH MANJHI, Son of Arjun Manjhi R/o village- Kolhaura, P.S.- Bodh Gaya, District- Gaya through his father and natural guardian namely Arjun Manjhi aged about 44 years (Male) son of Late Rambhajan Manjhi, Resident of Village - Kolhaura, P.S.- Bodh Gaya, District- Gaya.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant/s : Mr.Shailesh Kumar, Advocate

For the Respondent/s : Mr.Bipin Kumar, Addl.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

4 18-08-2021 Heard learned counsel for the appellant and learned A.P.P. for the State.

Appellant, in the present case, is seeking setting aside of the impugned order and his release on bail during pendency of the trial before learned Special Judge (Children Court), Gaya in connection with Bodh Gaya P.S. Case No. 317 of 2019 registered for the offence under Section 376/34 of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act (hereinafter referred to as “POCSO Act”).

Learned counsel for the appellant submits that as per the First Information Report lodged on 13.07.2019 at 6:00 P.M. in respect of the alleged occurrence which took place on

11.07.2019 at 10:00 P.M., when the informant went to attend the call on nature outside her house, the co-accused Sardar Kumar and this appellant came and forcibly took her in a boundary and the co-accused Sardar Kumar had committed rape on her. It is alleged that this appellant had caught hold of the hand of the victim girl. She claims to have become unconscious but after some time she regained consciousness and reached her house and disclosed the occurrence to her family members.

Learned counsel for the appellant submits that had the allegations in the F.I.R. been correct, the victim girl is said to have reached her house only after sometime of the alleged occurrence and had disclosed this to her family members, but no F.I.R. was lodged for about two days.

Learned counsel further submits that in the statement under Section 164 Cr.P.C. (Annexure '3') the victim girl has reiterated the specific allegation against co-accused Sardar Kumar. It is pointed out that in her statement she has stated that she regained consciousness on the next day and then she disclosed this to her family. This, according to him, gives rise to an issue of credibility to the statement of the victim.

Learned counsel further submit that this appellant has been adjudged juvenile in between 16-17 years of age. In the

F.I.R. the age of this appellant has been mentioned as 13 years only. He is in the Special Home since 15.07.2019, till date the trial has not begun.

Learned A.P.P. for the State has though opposed the prayer for bail of the appellant saying that this appellant is involved in the alleged offence by helping the co-accused but it is accepted that so far as this appellant is concerned, the allegation against him is that he had caught the hand of the victim girl.

As regards the social investigation report, learned A.P.P submits that lack of parentage control has been found to be one of the reasons for involvement of the appellant in the present occurrence.

Considering the facts and circumstances of the case wherein this Court has noticed that so far as this appellant is concerned, he has not committed rape on the victim girl, the age of the appellant mentioned in the F.I.R. is thirteen years only, though he has been found between 16-17 years in the medical examination, the appellant has got no criminal antecedent and at this stage he has remained in the Special Home for more than two years, the trial has not commenced as yet, therefore, the Court is of the considered opinion that keeping in view the

principles of *Parens Patriae* as contained under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 the further institutional stay of the juvenile is not required. He is enlarged on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Special Judge (Children Court), Gaya, in connection with Juvenile Trial No. 3/2020 arising out of Bodh Gaya P.S. Case No. 317 of 2019, subject to the condition that one of the bailors would be the father of the appellant and he shall give an undertaking that after release on bail, the appellant would not be allowed to come in contact with any bad element and the appellant shall not try to contact the victim girl or her family members during trial.

The Probation Officer attached to the Juvenile Justice Board, Gaya shall keep on visiting the place of the appellant and submit periodical reports to the Board.

This appeal stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.