

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1641 of 2021

Arising Out of PS. Case No.-28 Year-2020 Thana- THARTHARI District- Nalanda

Rakesh Kumar (Male), aged about 19 years, Son of Shyam Sunder Saw,
Resident of Village Barki Ddiha, P.S. Tharthari, District Nalanda.

... .. Appellant/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. N.K. Agrawal, Senior Advocate Mr. Lovekush Kumar, Advocate
For the Respondent/s	:	Mrs. Abha Singh, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

6 02-09-2021 Heard Mr. N.K. Agrawal, the learned Senior Counsel
for the appellant assisted by Mr. Lovekush Kumar and the
learned APP for the State through virtual court proceedings.

The present appeal is filed by the appellant against the
order dated 09.01.2021, passed in Children Case No.7/2020/CIS
No.7513/2020, arising out of Tharthari P.S. Case No.28 of 2020,
registered under Sections 304(B) and 201/34 of the Indian Penal
Code, pending in the court of learned A.D.J., Ist, Nalanda at
Bihar Sharif whereby the prayer for bail of the appellant was
rejected.

The informant, Sanjay Saw alleged that he solemnized
marriage of his daughter with Rakesh Kumar, the appellant.
After marriage, the daughter of the informant was tortured



mentally and physically for non-fulfillment of additional demand of dowry. On 22.02.2020, the informant was telephonically informed that his daughter was killed by her in-laws. When the informant and his family went to see his daughter, no one was present in the house.

Learned Senior Counsel for the appellant submits that the appellant was declared juvenile by the Juvenile Justice Board. It is further submitted that at the time of occurrence, the age of the appellant was 17 years 8 months and 6 days.

By order dated 25.06.2021, report was called for regarding stage of trial. Perused the report. The learned 1st Additional District & Sessions Judge, Biharsharif (Nalanda) reported that a letter also correspondence to the Superintendent, Sub Jail, Hilsa and Superintendent, Place of Safety, Sheikhpura. A report from Sub Jail, Hilsa was received showing that the child was remanded to jail mentioning age 22 years and he was never produced physically before J.J.B., Nalanda. But from the ordersheet dated 12.10.2020 of J.J.B., it appears that he was produced physically from Observation Home, Nalanda, which seems to be wrong. For the benefit of juvenile, it is ordered to transfer that child from Sub Jail, Hilsa to Observation Home, Biharsharif (Nalanda) immediately and on next date for order on



section 19 of the J.J. Act will be passed after production of child through video conferencing.

Paragraph-10 of order dated 09.01.2021 reads as follows:

“10. After considering all the aspect in regard of this juvenile it is found that the allegation leveled against him which is of very serious and heinous nature of killing his wife for dowry. His age is about 18 Years as assessed by Juvenile justice board and according to counselling report it seems that he is person of mature mind. The age of accused in this matter is just 4 months less, to attend maturity, as per law. But it seems that he was married man having mental as a physical Maturity. As he is mentally mature and able to understand the Consequences of his conduct. According to the report I am of the opinion that the child conflict with law is enough mature to understand the consequences of his act and yet he is mature enough mentally and physically and only taking plea of Juvenility on the basis of certificate, the gravity of offence committed by him cannot be ignored, because there is observation of several Hon'ble High Court and Supreme Court that maturity does not come in overnight.”

Considering the submissions of the learned Senior



Counsel for the appellant and on perusal of the records, I am not inclined to enlarge the appellant on bail. Accordingly, the prayer for bail of the appellant is rejected in connection with Children Case No.7/2020/CIS No.7513/2020, arising out of Tharthari P.S. Case No.28 of 2020.

However, the trial court is directed to expedite the trial and conclude the same preferably within a period of nine months from the date of receipt/production of a copy of this order. If the trial is not concluded within nine months, the appellant may renew his prayer for bail.

(Anjani Kumar Sharan, J)

S.KUMAR/-

U		T	
---	--	---	--

