

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.247 of 2021

Arising Out of PS. Case No.-7 Year-2020 Thana- MAHILA PS District- Buxar

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RAVI KUMAR @ RAVI KUMAR CHAUHAN Son of Bir Bahadur Chouhan
Resident of Village - Barpur, P.S.- Itarhi, District - Buxar Through his father
Bir Bahadur Chouhan, aged about 32 years (Male), S/o Kushun Chouhan,
Resident of Village - Harpur, P.S.- Itarhi, District - Buxar.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Arun Kumar Gupta
For the Respondent/s : Mr.Amit Kumar Rakesh, APP

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 17-08-2021 This matter is taken up for consideration through

Video Conferencing.

Heard counsel for the petitioner and the State.

Instant criminal revision application is directed
against the judgment and order dated 23.12.2020 passed by
learned Additional Sessions Judge Ist-cum-Special Judge
(Children Court), Buxar in Criminal Appeal No. 33 of 2020
arising out of Buxar (Mahila) PS Case No. 07 of 2020 (POCSO
01/2020) registered for the offence under Section 376D of the
Indian Penal Code, section 6 of the POCSO Act and sections
3(i)(r)(w), 3(2)(v) of the SC/ST Act whereby and whereunder
order dated 24.07.2020 passed in JJB Case No. 541 of 2020 by
which prayer for bail of the petitioner has been rejected.



As per the prosecution case, on 08.01.2020 at 6.00 am, while the informant was going to coaching class, this appellant along with other FIR named accused persons committed rape with her.

It is submitted on behalf of learned counsel for petitioner that petitioner has been declared juvenile by the Juvenile Justice Board vide order dated 02.07.2020 as on the alleged date of occurrence, he was 13 years 7 months and 25 days. It is further submitted that Juvenile Justice Board as well as Children Court have rejected the bail application of the petitioner only considering the merit and nature of allegation which is not in consonance with the mandate of law. Case of juvenile is to be considered on the criteria laid down under Section 12 of of the Juvenile Justice Board Act. It is further submitted that social investigation report is based on conjectures and surmises and without any material. Petitioner has got clean antecedent and he is in custody since 10.01.2020.

Counsel for the State vehemently opposed the prayer for bail.

From perusal of provisions of sections 12 of the Juvenile Justice (Care and Protection of Children) Act, it is evident that the Juvenile Justice Board as well as the Appellate



Court are required to look into aspects which may be relevant with reference to three grounds, namely, likelihood of association with criminals, likelihood of moral, physical or psychological danger and likelihood to defeat ends of justice, rather than searching into merits of the case or nature and gravity of allegation. In this case, without there being such finding or report of social investigation, only nature and gravity of offence has been taken into consideration while considering bail application of this appellant which is contrary to statutory mandate of Section 12 of Juvenile Justice Act, Interest of children is paramount consideration in such cases. In absence of adverse report of social investigation on those three accounts, the bail should not be denied to a juvenile in conflict with law.

Considering the aforesaid facts, this revision application is allowed. The order dated 23.12.2020 passed by learned Additional Sessions Judge Ist-cum-Special Judge (Children Court), Buxar in Criminal Appeal No. 33 of 2020 arising out of Buxar (Mahila) PS Case No. 07 of 2020 (POCSO 01/2020), is set aside.

Let the petitioner above-named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned



Additional Sessions Judge Ist-cum-Special Judge (Children Court), Buxar in Criminal Appeal No. 33 of 2020 arising out of Buxar (Mahila) PS Case No. 07 of 2020 (POCSO 01/2020) with further condition that the parent or guardian of the petitioner shall file an affidavit for the good behaviour and child's well being for a period of one year.

(Prabhat Kumar Singh, J)

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