

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.289 of 2021**

Arising Out of PS. Case No.-161 Year-2020 Thana- WARISLIGANJ District- Nawada

Bablu Kumar @ Bablu Chaudhary S/o Tanik Chaudhary @ Budhu Under legal guardianship of Tanik Chaudhary @ Budhu father of Petitioner), R/o village- Mosama, P.S.- Warisaliganj, District- Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Advocate

For the Respondent/s : Mr. Binod Kumar Modi, APP

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER**

2 03-08-2021 Heard the parties in virtual Court proceeding.

Let the defects, if any, be removed within four weeks of the start of the physical Court.

Petitioner is the sole accused in connection with Warisaliganj P.S. Case No.161 of 2020 registered under Section 366A of the Indian Penal Code.

Allegation against the petitioner is that he induced to the minor daughter of the informant to go with him for the purpose of marriage. The petitioner is in custody since 05.06.2020. He was declared juvenile by the Juvenile Justice Board on 28.09.2020 on the basis of record of date of birth in school certificate, which is 01.01.2004. Thereafter, the Juvenile Justice Board refused the prayer for bail to the petitioner and the



order was affirmed by the learned lower appellate Court in Cr. Appeal (J) No. 15 of 2020 on 05.10.2020.

Both the orders are under challenge in this application under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

The Probation Officer had reported that in the event of release there is chances of the petitioner being exposed to physical and moral danger. On the basis of the aforesaid report and considering the heinous crime alleged to be committed by the petitioner prayer for bail was refused by the Juvenile Justice Board as well as learned lower appellate Court.

Learned counsel for the petitioner contends that there was no material before the Court-below or before the Probation Officer to substantiate that the recourse to proviso to Section 12 of the Juvenile Justice (Care and Protection of Children) Act could have been taken. In absence of any material to substantiate that in the event of release, the petitioner would be exposed to moral or psychological danger, only on the basis of opinion of the Probation Officer the prayer for bail could not have been refused. The law is well settled that irrespective of seriousness of allegation a juvenile cannot be detained in prison.

Learned Additional Public Prosecutor opposed the



prayer for bail on the ground that finding of both the Courts-
below is concurrent and allegation against the petitioner is of
serious nature of commission of rape.

The impugned orders are hereby set aside because
none of the orders were based on the basis of materials on the
record to substantiate that the proviso to Section 12 of the
Juvenile Justice Act was applicable.

Let the petitioner, above named, be released at once
on execution of surety bond by either of the parents of the
petitioner giving undertaking that he/she shall keep proper care
and upkeep of the petitioner and shall fully cooperate in the
enquiry/trial before the Juvenile Justice Board.

Accordingly, the revision application stands allowed.

(Birendra Kumar, J)

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