

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.353 of 2020**

Arising Out of PS. Case No.-316 Year-2017 Thana- DHAKA District- East Champaran

CHANDAN KUMAR @ CHANDAN KUMAR MAHTO S/o Indra Bhusan
Kumar Sudi Resident of Village-Sirsiya, P.S.-Bela, District-Sitamarhi.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner/s : Mr.Dilip Kumar Tondon, Advocate
For the Respondent/s : Mr.Akhileshwar Dayal, APP

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

4 06-04-2021 Heard learned counsel for the petitioner and Mr.
Akhileshwar Dayal, learned A.P.P. for the State.

Petitioner, in the present case, is seeking setting aside the order dated 17.03.2020 passed by learned 1st A.D.J. - cum – Special Judge (Child Court), Motihari, in connection with trial no. 12/2020 arising out of Dhaka (Puchpakri) P.S. Case No. 316/2017 registered for the offence under Section 344, 323, 366(A), 506/34 of the Indian Penal Code and under Section 4, 6, 8 of the Protection of Children from Sexual Offence Act (hereinafter referred to as the ‘POCSO Act’).

Learned counsel for the petitioner submits that as per the prosecution story the minor daughter of the informant was allured and taken away by three named accused persons on 27.08.2017 from the house of the informant, one of them is this



petitioner. The informant says that when he returned to his house, his daughter was missing and in course of search he came to know that the three boys had taken away his daughter whereupon he contacted them but they abused and beaten the informant.

Learned counsel submits that the alleged occurrence is said to have been taken place on 27.08.2017 whereas the F.I.R. has been lodged in this case after 12 days of the alleged occurrence. It is further submitted that the reading of the F.I.R. would show that after the alleged occurrence the informant had been in touch with the boys and he was aware of the presence of his daughter.

Learned counsel further submits that when the victim girl was recovered, she came out with altogether a different story. According to the victim girl, she had gone to the house of one Suresh Rai at the instance of his daughter who had taken her to her house in the name of a visit. From there she was taken on a bike to Sitamarhi by the petitioner and co-accused Vivek. After few days she was taken to Nepal and thereafter she did not know what happened. She alleged that the petitioner had made physical relationship with her.

Learned counsel submits that from the statements of



the victim girl also it would appear that she admits to have been taken away to Sitamarhi and Nepal which is not possible without her own will and volition. Further it seems to be a case of love affair between the two juveniles, therefore, in the nature of the relationship between the two juveniles perhaps the offences under the POCSO Act may not be attracted and this is one of the bones of contention in the present days.

Learned A.P.P. for the State has though opposed the prayer for bail of the petitioner but does not dispute that the petitioner has been adjudged juvenile. He has remained in jail for one and half year and the trial is not likely to be concluded in near future because the trial court's report shows that for the present only charges have been framed.

Considering the facts and circumstances of the case, the two things which have weighed in the mind of this Court are that the petitioner has been adjudged juvenile in this case and the F.I.R. has been lodged 12 days after the alleged occurrence even as the informant himself says in the F.I.R. that he had contacted the accused, considering that both the petitioner and the victim girl are juvenile, the petitioner has remained in the observation home for one and half year and the trial is not likely to be concluded in near future as also he has otherwise no



criminal antecedent, this Court directs release of the above-named petitioner 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 1st A.D.J. - cum – Special Judge (Child Court), Motihari, in connection with trial No. 12/2020 arising out of Dhaka (Puchpakri) P.S. Case No. 316/2017.

Subject to undertaking to be given by the father of the petitioner that he would keep the petitioner with himself, shall take care of his study and would not allow him to fall in any bad company.

The Probation Officer shall also keep on visiting the place of the petitioner from time to time and shall furnish periodical report before the Juvenile Justice Board.

(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'.

