

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.407 of 2021

Arising Out of PS. Case No.-111 Year-2020 Thana- CHANAN District- Lakhisarai

XX

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Awadhesh Kumar Pandey, Adv.

For the Respondent/s : Mr. Atul Chandra, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 10-08-2021 Heard learned counsel for the parties through video conferencing.

At the outset, it is submitted by learned counsel for the petitioner that the instant application which has been filed erroneously under sections 397 and 401 of the Code of Criminal Procedure may be treated to be an application under section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 ('the Act' in short).

Though the petitioner has given full description in the application, it would be inappropriate to disclose his identity in view of section 74 of the Act. Thus, he is being referred to in the cause title as XX.

The registry while uploading the order on the website



shall ensure that the cause title is reflected in a similar manner.

This application has been preferred under the Act, against the order dated 26.2.2021 passed by the learned Additional District and Sessions Judge-1-cum-Special Judge, Lakhisarai whereby the learned Judge was pleased to reject the prayer for bail of the petitioner in connection with Chanan P.S. Case no.111 of 2020 registered under sections 376, 306 and 34 of the Indian Penal Code and section 4 of the POCSO Act.

As per allegations in the FIR, it is stated by learned counsel for the informant that her 15 year old daughter committed suicide. The cause of occurrence was that the petitioner herein was forcibly establishing physical relations with her. The deceased had narrated about the occurrence to her sister.

It is submitted by learned counsel for the petitioner that by order dated 26.11.2020, the Juvenile Justice Board, Lakhisarai declared the petitioner to be a juvenile on the date of occurrence. However, by order dated 7.1.2021 the prayer for bail of the juvenile petitioner was rejected and the same was upheld by order dated 26.2.2021 of the learned Additional District and Sessions Judge-I-cum-Special Judge, Lakhisarai.

On merits, it is submitted that the petitioner has been



falsely implicated in the case. The allegations has been made after the daughter of the informant committed suicide for oblique reasons, no explanation has been furnished as to why no complaint/ F.I.R. was registered earlier for the allegations leveled against the petitioner. The petitioner surrendered and is in custody since 3.10.2020. The instant application has been filed on behalf of the petitioner by his father who is ready to take care of the petitioner.

The application is opposed by learned APP for the State.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case including the ratio of the judgment of this Court in the case of *Lalu Kumar and Ors. versus State of Bihar and Ors.*[2019 (4)PLJR 833] together with the fact that there is no material on record to come to the conclusion that the release of the petitioner would expose him to moral, physical or psychological danger, the Court is inclined to allow the instant application. The application is allowed and the order dated 26.2.2021 passed in Cr. Appeal no. 5 of 2021 by the learned Additional Sessions Judge 1-cum-Special Judge, Lakhisarai, is set aside.



The juvenile petitioner is directed to be enlarged on bail in connection with Chanan P.S. Case no.111 of 2020 on furnishing bail bond of Rs. 10,000/ (Rupees five thousand) with two sureties of the like amount each to the satisfaction of the learned Juvenile Justice Board, Lakhisarai.

(Partha Sarthy, J)

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