

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.420 of 2021

Arising Out of PS. Case No.-299 Year-2020 Thana- BAKHARI District- Begusarai

Ritesh Kumar, S/O Surendra Sahni, Resident of Village-Parihara, P.S.-Bakhri, District – Begusarai, under guardianship of his mother, namely, Durga Devi, W/o Surendra Sahni, Resident of Village-Parihara, P.S.-Bakhri, District - Begusarai.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Randhir Kumar No.1, Advocate
For the Respondent/s : Mr.Chandra Sen Pd. Singh, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 07-10-2021 Heard learned counsel for the petitioner and the learned counsel appearing on behalf of the State.

The present revision application has been preferred against the order dated 16.03.2021 passed in Cr. Appeal No.14 of 2021 by learned Additional Sessions Judge-I cum P.O., Children Court, Begusarai, affirming the order dated 06.11.2020 passed by learned Principal Magistrate, Juvenile Justice Board, Begusarai in J.J.B. Case No.148 of 2020, in connection with Bakhri (Parihar O.P.) P.S. Case No.299 of 2020 registered under Section 377 of the Indian Penal Code and Section 4/6 of the POCSO Act, by which the prayer for bail made on behalf of the petitioner has been rejected.

The informant's son has allegedly been subjected to



unnatural sex by the instant petitioner. The petitioner was declared a juvenile. He is stated to be having no criminal antecedents and is in custody since 18.07.2020.

The submission is that the petitioner is a school going student and the statement of the victim under Section 164 Cr.P.C. is not corroborated by the report of the Medical Board. He further submits that two forums, which have considered the prayer for bail, have not considered the same in accordance with the provisions of the Juvenile Justice (Care & Protection of Children) Act (hereinafter referred to “the Act”) .

Social Investigation Report has been requisitioned earlier. The Probation Officer has submitted the Social Investigation Report. It considers that there has been some lack of guidance at his home since his mother compelled by the poverty, is required to be away from home for considerable time for work.

Learned counsel for the petitioner, however, submits that the father is very much available and apart from that, the paternal uncle (*Phupha* of the petitioner) has also given an affidavit, stating that he undertakes that he will exercise due care over the petitioner in absence of his mother.

The Social Investigation Report does not reveal any of



the circumstances contemplated under the proviso to Section 12 of the Act, which would disentitle the petitioner to grant of bail. There is nothing on record to show that he is likely to come in association of known criminal elements or exposed to physical, mental or moral danger in the event he is released. In absence of any such circumstances, the mandate of Section 12 of the Act is for release of the child in conflict with law.

Considering the submissions, facts and circumstances and the undertaking, this Court allows the prayer for the petitioner's release.

Let the above named petitioner, a juvenile, be released on bail on his furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of Juvenile Justice Board, Begusarai, in connection with J.J.B. Case No.148 of 2020, arising out of Bakhri (Parihar O.P.) P.S. Case No.299 of 2020, in favour of his paternal uncle (Suman Kumar), who shall keep him under his guardianship and produce him as and when required and also subject to the condition that one of the bailors of the petitioner shall be the paternal uncle (*Phupha*), who at the time of filing of the bonds, shall also give an undertaking that he will take proper care of the petitioner and in case the petitioner does not act as per his



advice, he shall report the matter to the Officer-in-Charge of the concerned police Station and further during the period of bail, the petitioner will be under the supervision of concerned Probation Officer.

In the result, the revision application is allowed and the impugned order dated 16.03.2021 is set aside.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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