

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.13 of 2021**

Arising Out of PS. Case No.-227 Year-2020 Thana- BANKA District- Banka

=====

MITHLESH TANTI @ MITHILESH KUMAR Son of Pramod Tanti,
Resident of Village - Salaiya, P.S. and District - Banka, Under the
Guardianship of his Father namely Pramod Tanti, Male, Aged about 34 Years,
Son of Rohan Tanti, Resident of Village - Salaiya, P.S. and District - Banka.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

=====

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Jha, Advocate
For the Informant	:	Mr. Ajay Mukherjee, Advocate
For the Respondent/s	:	Mr. Nawal Kishore Prasad, APP

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 02-08-2021 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

Petitioner in the present case is a juvenile declared
under the provisions of the Juvenile Justice (Care and Protection
of Children) Act, 2015 hereinafter referred to as J.J. Act. He is
seeking setting aside the order dated 28.05.2020 passed by the
learned Additional Sessions Judge-I, Banka in Cr. Appeal No.
06 of 2020 by which the learned court has rejected the prayer
for regular bail of the petitioner in connection with G.R. No. 34
of 2020 (Banka P.S. Case No. 227 of 2020).

Learned counsel for the petitioner submits that as per
the prosecution story on 17.03.2020 at about 7.00 pm when the

informant was going to the field to meet her natural call, the petitioner forcibly took her to goda bahiyar and committed rape on her thereafter she returned home weeping and told her mother regarding the occurrence. The F.I.R. was lodged after two days i.e. on 19.03.2020 at 4.10 pm.

Learned counsel for the petitioner submits that in course of investigation the victim girl has stated that she was in love affair with this petitioner and had been talking to him for last one year. In her statement under Section 164 Cr.P.C. also she has stated that she was in love with this petitioner for last one year.

Learned counsel submits that the victim girl and the petitioner both are in the same immature age and the Probation Officer has recorded in the social investigation report that they came in touch with each other as friend and the reason for the alleged occurrence is immature attraction, the Probation Officer has also found that the victim girl was talking to the petitioner and he has further found that the petitioner was a student of intermediate class and had appeared in the intermediate examination, his behaviour with his family members and friends were friendly and though he was disciplined but there had been some issues of adjustments among the family members.

Learned counsel submits that the medical examination report does not find any external or internal injury on the body of the victim girl and further no opinion has been given as to commission of rape.

Mr. Ajay Mukherjee, learned counsel for the informant has opposed the prayer for bail of the petitioner. He has read out the statement under Section 164 Cr.P.C. and has further stated on query made by this Court that the medical examination report of the victim is silent on the question of rape. Mr. Mukherjee has further admitted that in the medical examination report there is no finding as to any injury on the body of the victim girl.

Learned A.P.P. for the State has also opposed the prayer for bail of the petitioner stating that the learned Additional Sessions Judge, Banka has rejected the prayer for bail of the petitioner saying that if released on bail he may likely to bring him into association with such type of known criminals who may expose him to moral, physical and psychological danger and his release will defeat the ends of justice.

Considering the facts and circumstances of the case wherein the victim girl and the petitioner are almost of similar age, the Probation Officer has noticed that they were friends and

in touch with each other for last one year, the alleged occurrence has taken place out of immature attraction and the boy was a student at the relevant time, his otherwise behaviour has been found friendly and disciplined, there being no finding in the social investigation report that the friends of the petitioner are of criminal background, in the opinion of this Court the learned Additional Sessions Judge while rejecting the prayer for bail had no reason to take a view that if released on bail the petitioner is likely to fall in bad association, considering the spirit of Section 12 of the J.J. Act, 2015 and then the Children's Court report saying that the trial is likely to be concluded in one year if the normal court work resumes, the petitioner who has already remained in observation home for more than one and half year is required to be released on bail so that he may reunite himself with the family where care may be taken for further study and connecting him with the mainstream of the society, in the circumstances, this Court sets aside the impugned order and directs release of the 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 Juvenile Justice Board, Banka in connection with G.R. Case No. 34 of 2020 (Banka P.S. Case No. 227 of 2020). One of the

sureties will be the father of the petitioner who will give an undertaking that after his release on bail the petitioner shall not be allowed to come in contact with any person of bad antecedent and that he will be associated with the studies and further that the petitioner shall not be allowed to come in contact with the victim girl or her family members. The Probation Officer shall also keep on visiting the residence of the petitioner and submit his periodical reports to the Juvenile Justice Board, Banka.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

Rishi/-

U		T	
---	--	---	--

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'.