

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.669 of 2019

Arising Out of PS. Case No.-136 Year-2016 Thana- DHAMDAHA District- Purnia

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ROHIT KUMAR @ ROHIT SHARMA Son of Late Pappu Sharma, Resident of Village - Banshi Purandaha, P.S.- Dhamdaha, District - Purnea through his uncle Pintu Sharma aged about 37 years son of Ramdev Sharma, Resident of Village - Banshi Purandaha, P.S.- Dhamdaha, District - Purnea

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Petitioner/s : Mr. Dr. Bidhu Ranjan, Advocate

For the Respondent/s : Mr. Abhay Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 19-02-2021 Heard learned counsel for the petitioner and Mr. Abhay Kumar, learned A.P.P. for the State.

The petitioner in this case is juvenile who is seeking to challenge the order dated 07.03.2019 passed by learned Special Judge, Baal Nyayalay, Purnea in Special Kishore Case No. 05 of 2018 / CIS No. 05 of 2018 arising out of Dhamdaha P.S. Case No. 136 of 2016 registered for the offences punishable under Sections 366A/34 of the Indian Penal Code. By the impugned order the prayer for regular bail of the petitioner has been rejected.

Learned counsel for the petitioner submits that in the alleged occurrence it is stated that the two victim girls were enticed away by the petitioner on his motorcycle and then they were taken away to Delhi by co-accused Hemant Kumar Mahto and Birju Mahto.



Learned counsel submits that both the girls have come back later on and they have made statements under Section 164 Cr.P.C. One of the victims has alleged that she along with the another girl had gone on the motorcycle of this petitioner to a place where one scorio was already standing. The another girl has stated that both the girls had gone to the said place by a motorcycle of co-accused Hemant Kumar where one bolero was already standing and then both of them were put in the bolero vehicle, they were made to be unconscious and thereafter they found themselves at Delhi. Both the victim girls have alleged that Hemant and Birju were committing rape on her.

Learned counsel submits that so far as this petitioner is concerned, there is no allegation that this petitioner had committed rape on the victim girls. It is further stated that the co-accused Birju and Hemant have been enlarged on bail vide Cr. Misc. No. 53038 of 2016 and Cr. Misc. No. 56203 of 2018 respectively by two learned coordinate Benches of this Court.

Learned counsel submits that the learned coordinate Bench of this Court had taken note of the fact that the F.I.R. was instituted two days after the alleged missing of the victim girls and the medical board has assessed the age of the victim girls as 17-18 years.

Learned counsel submits that so far as this petitioner is



concerned, the only allegation made by one of the victim girls is that they had been taken to the place where scorio was standing on the motorcycle by this petitioner. It is submitted that the petitioner has been falsely implicated, he has otherwise no criminal antecedent and if released on bail there is no chance of his falling in the company of bad elements.

Learned counsel further submits that the petitioner has remained in the observation home since 21.02.2017 and the trial is not concluded till date.

Learned A.P.P. for the State has though opposed the prayer for regular bail of the petitioner but does not deny that the petitioner has been assessed as 16 years 1 month old on the alleged date of occurrence and the two co-accused against whom there were specific allegations have been granted bail by learned coordinate Benches of this Court.

Having regard to the facts and circumstances of the case, in the nature of the submissions as discussed hereinabove wherein there is no allegation of commission of rape against this petitioner, he is a juvenile and has remained in observation home for almost four years and no evidence has come in the trial till date, the impugned order is hereby set aside.

Let the above-named petitioner be released 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 Special Judge, Baal Nyayalay, Purnea in connection with Special Kishore Case No. 05 of 2018 / CIS No. 05 of 2018 arising out of Dhamdaha P.S. Case no. 136 of 2016 one of the sureties would be the uncle of the juvenile who is the pairvikaar in this case. The uncle (pairvikaar in this case) of the juvenile shall furnish an undertaking that on release from the observation home he shall keep full vigil on the juvenile and he would ensure that the juvenile/petitioner does not fall in any bad company and in case of any adverse development the same shall be reported to the Juvenile Justice Board, Purnea.

The Probation Officer shall keep on visiting the residence of the petitioner and submit his observations/report to the Juvenile Justice Board, Purnea periodically.

This application is, thus, allowed.

(Rajeev Ranjan Prasad, J)

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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'.

