

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.409 of 2020

Arising Out of PS. Case No.-5 Year-2020 Thana- DHANAHA District- West Champaran
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XX

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate

For the Respondent/s : Mr. Nand Kishore Prasad, APP.

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

3 09-08-2021 Heard learned counsel for the parties through video conferencing.

Though the petitioner has given full description in the application, it would not be appropriate to disclose his identity in view of statutory provision prescribed under section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015, ('the Act' in short). He is being referred to in the cause title as XX.

The Registry is directed that while uploading the order on the website, it shall also ensure that the cause title is reflected in a similar manner.

This revision application is directed against the order dated 25.9.2020 passed by the learned Sessions Judge, West Champaran at Bettiah whereby the learned Court was pleased to uphold the order dated 24.6.2020 passed by the Juvenile Justice Board, West Champaran, Bettiah, and rejected the prayer for bail of



the petitioner in connection with a case registered under section 376 of the Indian Penal Code and section 4 of the POCSO Act.

As per the prosecution case, the petitioner after tying the informant's daughter with a towel, is said to have committed rape on her.

It is submitted by learned counsel for the petitioner that by order dated 16.5.2020 passed in J.J.B.Case no.560 of 2020, the Juvenile Justice Board, West Champaran, Bettiah, was pleased to estimate the age of the petitioner on the date of occurrence as 13 years 8 months 21 days and declared him to be a juvenile. On merits it is submitted that the allegations as levelled against the petitioner in the FIR was not supported in the statement under section 164 Cr.P.C. by the daughter of the informant nor in the medical examination, report of which is Annexure-3 to the petition. There is delay of 5 days in lodging of the FIR. The petitioner is in custody since 18.2.2020.

On perusal of the order of the Juvenile Justice Board and the learned Sessions Judge rejecting the prayer for bail of the petitioner it transpires that the orders have been made on the merits of the case and seriousness of the offence.

Having heard learned counsel for the parties and taking into consideration the petitioner having been declared to be a juvenile by order dated 16.5.2020 together with the decision of this Court in the case of *Lalu Kumar & ors. vs. The State of Bihar & ors.* [2019 (4)



PLJR 833] and no material being available 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 25.9.2020 passed in Cr. Appeal no. 18 of 2020 by the learned Sessions Judge, West Champaran at Bettiah as also the order dated 24.6.2020 passed by the Juvenile Justice Board, West Champaran, Bettiah, in J.J.B. Case no. 560 of 2020 are both set aside.

The petitioner is directed to be enlarged on bail on furnishing bail bond of Rs.10,000/ (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Juvenile Justice Board, West Champaran at Bettiah in connection with Dhanha P.S.Case no. 5 of 2020.

The revision application stands allowed.

(Partha Sarthy, J)

Spd/-

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