

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.413 of 2020**

Arising Out of PS. Case No.-479 Year-2019 Thana- AKBARPUR District- Nawada

ABHISHEK KUMAR Son of Nakul Paswan Resident of Vill- Panchrukhi
Mohalla Paswan Tola, P.S.-Akbarpur, District- Nawada, the Mother of
petitioner is natural guardian namely Soni Devi aged about 38 years female
Wife of Nakul Paswan resident of village Paanchrukhi,P.S.- Akabarpur Dist.-
Nawadah

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ram Prawesh Kumar
For the Respondent/s	:	Mr.A.G.

**CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT**

Date : 05-03-2021

Heard the learned counsel for the petitioner and the
learned A.P.P. for the State.

The present revision petition is directed against the
order dated 04.09.2020 passed by the learned Juvenile Justice
Board, Nawada in POCSO /J.I.N. No. 55 of 2019/ 670 of 2020,
whereby and whereunder the prayer of the petitioner for grant
of bail has been rejected as also for quashing of the order dated
03.11.2020 passed in Criminal Appeal (J) No. 12 of 2020,
arising out of Akbarpur P.S. Case No. 479 of 2019, whereby and
whereunder the learned 1st Additional Sessions Judge-cum-
Special Judge, Nawada has rejected the appeal and upheld the
aforesaid order dated 04.09.2020.



The case of the prosecution in brief as per the written complaint submitted by the informant before the Officer In-Charge, Akbarpur Police Station is that on 27.10.2019 at about 3:00 P.M. in the afternoon when the daughter of the informant, aged about 7 years, was playing at the bridge situated near the house, the victim girl had come back to the house in a bad state and was limping as also blood was oozing out from her private part. It is further alleged that when the informant had asked her daughter as to what had happened, she disclosed that while she was playing at the bridge, the petitioner herein had caught hold of her hand and had told her that he would give her chocolate and then he had taken her inside the field where he had opened her pant and had committed wrong with her. It is also alleged that when the informant had opened the pant of the victim girl she found that blood was oozing out from her private part. On the basis of the aforesaid statement of the informant, the connected case i.e. Akbarpur P.S. Case No. 479 of 2019 was registered by the police under Section 376 of the Indian Penal Code and Sections 4/8 of the POCSO Act.

The learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case, is having a clean antecedent and is languishing in the



observation home since 04.11.2019. It is further submitted that the petitioner has been declared juvenile by an order dated 27.08.2020 passed by the Juvenile Justice Board, Nawada and his age has been assessed to be 15 years, 5 months and 25 days as on the date of occurrence, hence Sections 15, 18 & 19 of the Juvenile Justice (Care & Protection of Children) Act, 2015 would not be attracted, thus there is no likelihood of regular sentence being passed against the petitioner and at best the petitioner can be tried as a juvenile, hence considering the maximum detention period, the petitioner be granted bail.

Per contra, the learned A.P.P. for the State has submitted that the petitioner has engaged in a heinous crime of committing wrong with a 7 year old child, hence no mercy should be shown against him and moreover there are ample materials in the case dairy to suggest the complicity of the petitioner in the alleged crime, especially the statement of the victim girl made under Section 164 Cr.P.C. before the learned Magistrate which also fully supports the allegation levelled against the petitioner. It is further submitted that the medical report also corroborates the alleged occurrence inasmuch as in the opinion of the doctor, who had examined the victim girl, evidence of sexual intercourse has been found.



I have heard the learned counsel for the parties and perused the materiel on record as also those available in the case diary from which it is apparent that prima facie a case is definitely made out against the petitioner herein for the offences alleged and the wrong committed by the petitioner with a 7 year old child also stands prima facie, substantiated as would be apparent from the materials collected during the course of the investigation by the police which have duly been recorded in the case dairy, hence I do not find any infirmity in the order dated 04.09.2020 passed by the Juvenile Justice Board, Nawada as also the order dated 03.11.2020 passed by the learned 1st Additional and Sessions Judge-cum-Special Judge, Nawada. This Court further finds from a bare perusal of the materials available on record that release of the petitioner on bail would definitely defeat the ends of justice, hence I am not inclined to grant bail to the petitioner at this stage.

Accordingly, the present petition stands dismissed.

(Mohit Kumar Shah, J)

S.Sb/-

AFR/NAFR	
CAV DATE	
Uploading Date	08.03.2021
Transmission Date	

