

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.82 of 2021

Arising Out of PS. Case No.-294 Year-2019 Thana- SAHEBPUR KAMAL District-
Begusarai

RIKKY KUMAR @ RIKKY KUMAR SHARMA S/O Arvind Sharma
Resident Of Village Sanha Purbari Tola, P.S-S. Kamal, District Begusarai
Through His Guardian Kailash Sharma Aged About 33 Year (MALE), S/O
Vishwanath Sharma, R/O Chamra Godam, Miyachak, P.S-Nagar, District-
Begusarai.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Binod Kumar, Advocate.
For the Respondent/s : Mr. A.G

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 24-05-2021 Heard learned counsel for the petitioner and learned
counsel for the State through video conferencing.

This is an application under Section 102 of the
Juvenile Justice (Care and Protection of Children) Act, 2015,
challenging the order dated 16.10.2020 passed in Cr. Appeal
No. 51 of 2020 by the Learned Additional Sessions Judge-I cum
P.O., Children Court, Begusarai as well as order dated
10.07.2020 passed by the Sri Ravi Ranjan, Learned Principal
Magistrate, Juvenile Justice Board, passed in J.J.B. Case No. 38
of 2020 arising out of S. Kamal P.S. Case No. 294 of 2019 for
offence Under Section 376, 323, 504, 34 of the I.P.C. and



Section 4 of the POCSO Act and whereby both the Courts below refused the prayer for bail to the petitioner.

The petitioner was declared juvenile by the Juvenile Justice Board and the order got finality.

As per the prosecution case, the informant stated *inter alia* that she had love affairs with neighbour Rikky Kumar Sharma who made promise to marry with her and also made physical contact resulting pregnancy, therefore, she made pressure to marry and on 25.09.2019 she along with her mother went to the house of Rikky Kumar but Arvind Sharma and Kiran Devi started abusing and assaulting. In due course Arvind Sharma, father of Rikky Kumar has called Mukhiya of the village, Abhinay Ranjan Jha through the mobile and the Mukhiya was trying to give Rs. 60,000/- to the mother of the victim and told her for abortion and to perform the marriage of the victim elsewhere, while mother of the informant protested, Mukhiya jee boarded her forcefully in his vehicle but the villagers saved her.

Learned counsel for the petitioner submits that there is no direct evidence against the petitioner and both the Courts below ignored the mandate of Juvenile Justice Act which



requires that bail to a juvenile is a right and the refusal is an exception. The seriousness of the offence is no consideration for refusal of bail as required under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Moreover, without any material on record to substantiate that in the event of release, petitioner would go into association with unsocial elements and would be exposed to moral, physical and psychological danger, the Courts below have refused the prayer on this ground.

This Court had called for a report from the Probation Officer which is available on the record and the same shows that petitioner is having no adverse reporting against him.

Since both the learned Courts below have committed error of record in coming to the conclusion that in the event of release, petitioner would go into association with some known criminals or would be exposed to moral, psychological and otherwise danger without any material to substantiate the same, hence both the orders are fit to be set aside.

Considering the totality of the facts and the circumstances as discussed above, this application is allowed and the aforesaid orders dated 16.10.2020 and 10.07.2020 are



set aside.

Let the petitioner, above named, be released at once on execution of bond by either of the parents of the petitioner giving undertaking that he/she shall keep proper care and upkeep of the petitioner and shall fully cooperte with the investigation/trial against the petitioner.

(Anjani Kumar Sharan, J)

GAURAV S./-

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