

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.172 of 2021

Arising Out of PS. Case No.-455 Year-2019 Thana- CHAPRA MUFFASIL District- Saran

1. SUKHARI NUT Son of Udesb Nut Resident of Village - Shivanagari, P.S.- Chapra Muffasil, Distt.- Saran.
2. Jitendra Nut Son of Rajesh Nut Resident of Village - Shivanagari, P.S.- Chapra Muffasil, Distt.- Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar Singh, Advocate.

For the Respondent/s : Mr. Sanjay Kr. Singh

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 24-05-2021 Heard learned counsel for the petitioners 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 03.12.2020 passed in Cr. Juvenile Appeal No. 15 of 2020 by the Learned 1st Additional Sessions Judge/Children Court, Saran at Chapra as well as order dated 09.09.2020 passed by J.J. Board, Chapra in Chapra Muffasil P.S. Case No. 455 of 2019 corresponding to J.J. Board Case No. 874 of 2020 under Section 376 (D) I.P.C. and 4/6 POCSO Act and whereby both the Courts



below refused the prayer for bail to the petitioners.

The petitioners were declared juvenile by the Juvenile Justice Board and the order got finality.

As per the prosecution case, on 09.11.2019 at about 10:00 P.M. when the informant was at the home of her Mausi on the occasion of Chhat and she went outside her house to attend the call of nature, she was caught by the petitioners who gave her mouth with Gamacha and committed rape upon her one by one and when dog started barking they fled away.

Learned counsel for the petitioners submits that there is no direct evidence against the petitioners 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, petitioners 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 petitioners are having no adverse reporting against them.

Since both the learned Courts below have committed error of record in coming to the conclusion that in the event of release, petitioners 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 03.12.2020 and 09.09.2020 are set aside.

Let the petitioners, 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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