

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.53 of 2022

Arising Out of PS. Case No.-150 Year-2021 Thana- KASBA District- Purnia

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XXX, S/o Babu Lal Uraon @ Babu Lal Minj Under the Care and Custody of his natural guardian Babu Lal Uraon @ Babu Lal Minj, Resident of Sisabari Fatehpur, P.S.- Kasba, District- Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ajit Kumar Singh, Advocate
For the Respondent/s	:	Mr.Akshay Lal Pandit, APP
For the Informant	:	Mr.Rabindra Kumar Priyadarshi, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 18-08-2022 Heard learned counsel for the petitioner, learned APP
for the State and learned counsel for the informant.

Petitioner in the present case is a juvenile aged about 13 years 6 months and 29 days. He is seeking setting aside of the order dated 23.11.2021 passed in Cr.Appeal No.14 of 2021 by learned 1st Additional Sessions Judge-cum-Special Judge, Purnea arising out of Kasba P.S. Case No.150 of 2021 registered under Section 376 of the Indian Penal Code and Section 4 of POCSO Act, whereby and whereunder the learned Sessions Judge has been pleased to reject the appeal filed by the petitioner and affirm the order dated 08.10.2021 passed by the learned Juvenile Justice Board, Purnea.

Learned counsel for the petitioner submits that the



allegation against the petitioner is that of commission of rape on the victim girl. Both the petitioner as well as the victim girl were residing during the pandemic period at the place of their maternal grandfather. This petitioner is a student of Class-VIII in St. Xavier School, Baghmara, Purnea and it has come in the social investigation report that the petitioner was living in hostel of the school. During the lockdown period, he was living at his maternal grandfather's place.

Learned counsel further submits that there is an admitted land dispute between the maternal grandfather's family of the victim girl and that of the maternal uncle of the present petitioner. The family of the victim girl has accepted the fact that there is a land dispute before the Probation Officer.

Learned counsel further submits that the probation officer has reported that the petitioner belongs to a normal family and his economic and social conditions are well. His family is capable of providing him complete rehabilitation and take care of his studies etc.

Learned counsel further submits that the probation officer has reported that the petitioner seems to have been indulged in the alleged occurrence because of his immatured mind set and negative excitement on watching some exciting



video clips. His other behavioural conducts have been found to be normal. Lastly it is submitted that if the petitioner is released on bail his father would stand as surety and shall furnish an undertaking that he will ensure that the petitioner remains involved in his studies and he does not visit the place of his maternal grandfather where the victim girl is residing.

Referring to the Hon'ble Division Bench judgment of this Court in the case of **Lalu Kumar and Ors. Vs. The State of Bihar** reported in **2019(4) PLJR 833**, learned counsel submits that keeping in view the spirit of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, an application for bail is not decided by reference to classification of offences, as bailable or non-bailable under the Cr.P.C. in the matter of grant of bail to a juvenile. In any case the family reunion of the juvenile must be preferred to an institutional care. The Probation Officer's report is also indicating that the family reunion of the petitioner at this stage would be more fruitful as he does not need an institutional care.

Learned APP for the State as well as learned counsel for the informant have opposed the prayer for bail of the petitioner. Their emphasis is on the gravity of the offence alleged. It is submitted that the allegation against the petitioner



is serious in nature. In course of argument, however, learned counsel does not dispute that the petitioner has been found aged about 13½ years only and this order of the Juvenile Justice Board declaring him a juvenile aged below 16 years is not under challenge in any competent court of law.

Learned counsel for the informant submits that if at all the Court is willing to grant bail to the petitioner some stringent condition may be imposed.

Having regard to the facts and circumstances of the case and the materials present in the social investigation report as have been indicated hereinabove showing that the conduct of the petitioner is otherwise good and his family is capable of taking care of him, he is also a student of Class-VIII and was pursuing his studies, he is only 13½ years old and the judgment of the Hon'ble Division Bench of this Court in the case of Lalu Kumar (supra) specifically states in paragraph '86' that classification of the offences under the bailable and non-bailable sections would not be relevant for the purpose of grant of bail to a juvenile and the prayer for bail of a juvenile may be rejected only under one of the three conditions as under:-

- “(i) The release is likely to bring that person into association with any known criminal;
- (ii) The release is likely to expose the said person to



moral or physiological danger; and

(iii) The release would defeat the ends of justice.”

and further this Court having noticed that the father of the petitioner is ready to stand as surety and furnish an undertaking in terms stated hereinabove, this Court sets aside the impugned order and directs release of the petitioner above named 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 Juvenile Justice Board, Purnea in connection with Kasba P.S. Case No.150 of 2021, subject to the condition that the petitioner shall be kept involved in his studies and will not be allowed to fall in bad company. Further the father of the petitioner shall ensure that the petitioner does not visit the village in which the victim girl is residing.

One of the sureties should be the father of the petitioner and he will also furnish an undertaking as indicated here-in-above. In case the petitioner indulges in any unlawful act, the father of the petitioner will inform it to the jurisdictional police station.

The Probation Officer shall keep on visiting the place of the petitioner and shall submit periodical report to the Juvenile Justice Board, Purnea as regards the conduct of the



petitioner. If anything adverse is found against the petitioner, the same will also be reported to the Board for necessary action.

This application stands disposed of accordingly.

(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'.

