

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.115 of 2022

Arising Out of PS. Case No.-263 Year-2021 Thana- SUGAULI District- East Champaran

VIKASH KUMAR Son of Kapildeo Sahani Resident of Village- Muswa, P.S.-
Sugauli, District- East Champaran.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Respondent

Appearance :

For the Petitioner/s : Mr. Ranjana Srivastava, Advocate
For the Respondent/s : Mr. Rabindra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 20-05-2022 Heard learned counsel for the petitioner and the State
through virtual mode.

Learned counsel for the petitioner is directed to remove
the defect(s) as pointed out by the office within a period of four
weeks.

This Criminal Revision has been preferred against the
order dated 21-01-2022 passed by the learned Ist Additional Sessions
Judge, Motihari, East Champaran in Criminal Appeal No. 42 of 2021,
whereby and where under the learned Ist Additional Sessions Judge,
Motihari, East Champaran has affirmed the order dated 30-10-2021
passed by the Juvenile Justice Board, Motihari, East Champaran in
J. J. B. Trial No. 1321 of 2021 arising out of Sugauli P.S. Case No.
263 of 2021, whereby the Juvenile Justice Board, Motihari, East
Champaran has rejected the prayer for bail of the petitioner in
connection with J. J. B. Trial No. 1321 of 2021 arising out of Sugauli



P.S. Case No. 263 of 2021, registered under Sections 363 & 366(A) of the Indian Penal Code.

Allegation against the petitioner is of abducting and sexually assaulting the victim.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 15-07-2021. The petitioner has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. Charge sheet in this case has already been submitted. The victim has already been recovered. As per medical examination report of the victim, there is no external injury on the body of the victim. Learned counsel for the petitioner further submits that the mother of the petitioner is ready to furnish an undertaking that while on bail, she will not allow the petitioner to associate with criminals or anti-social elements. The petitioner has relied upon the judgment of *Lalu Kumar and Ors. Vs. The State of Bihar (reported in 2019(4) PLJR 833)* where a Division Bench of this Court while considering the scope of Section 12 of the Juvenile Justice Act, 2015 in paragraph No. 84 of the judgment has observed the following:

84. While interpreting Section 12, the Board is duty bound to be guided by the fundamental principles enumerated in Section 3 of the Act of 2015, specially the principles of 'best interest', 'repatriation' and 'restoration' of child. The fundamental principles in Section 3(xii) provides that a



child shall be placed in institutional care as a step of last resort after making a reasonable inquiry. The gravity and nature of the offence are immaterial for consideration of bail under the Act of 2015. As per Section 12 of the Act of 2015, an application for bail is not decided by reference to classification of offences, as bailable or non-bailable under the Cr. P.C. All persons alleged to be in conflict with law and apparently a child when apprehended must be released except in the following three circumstances when there is reasonable ground for believing that:-

- (i) The released 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 psychological danger; and
- (iii) The release would defeat the ends of justice”.

Learned A.P.P. for the State is present and has opposed the prayer for bail of the petitioner.

Having regard to the facts and circumstances of the case, Social Investigation Report of the petitioner was called for from the concerned Probation Officer. The Probation Officer in his report has reported that the neighbours of the petitioner have stated that both the victim and the petitioner used to study in the same school and there was love affairs between the petitioner and the victim. The parents of



the petitioner intend that the petitioner should pursue his further study. Further the report does not reveal that there is any material to substantiate that in the event of grant of bail, the petitioner is likely to go into association of known criminals or any anti-social elements.

The law requires that reasonable grounds should be there for believing that in the event of grant of bail, the petitioner would go into association of any “known criminal” or exposed to moral, physical and psychological danger or the release of the person would defeat the ends of justice. There is no reference of any known criminal nor there is any other substantial material for the conclusion as recorded by the court below.

Considering the facts and circumstances of the case as well as the findings of the Probation Officer in the Social Investigation Report of the petitioner and the proposition of law as stated above, this Criminal Revision Application is allowed and the order 21-01-2022 passed by the learned Ist Additional Sessions Judge, Motihari, East Champaran in Criminal Appeal No. 42 of 2021 and the order dated 30-10-2021 passed by the Juvenile Justice Board, Motihari, East Champaran in J. J. B. Trial No. 1321 of 2021 arising out of Sugauli P.S. Case No. 263 of 2021 are set aside.

Let the petitioner, who has already been declared juvenile by the learned Juvenile Justice Board, Motihari, East Champaran be released in favour of his father on execution of surety bond of Rs.10,000/- (Ten Thousand) to the satisfaction of Juvenile Justice



Board, Motihari, East Champaran in connection with J. J. B. Trial No. 1321 of 2021 arising out of Sugauli P.S. Case No. 263 of 2021, with condition that ***mother*** of the petitioner shall furnish an undertaking that while the petitioner is on bail, mother will not allow the petitioner to come in company/association with any criminal or anti-social elements that he will take proper care of the petitioner. Further the the petitioner will be produced as and when required by the court below and shall cooperate during the trial.

(Sudhir Singh, J)

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