

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.188 of 2022

Arising Out of PS. Case No.-51 Year-2020 Thana- NARHATT District- Nawada

(XYZ) S/O Md. Akhtar Husain Under Legal Guardianship Of Sajda Khatoon
(Mother Of Petitioner), W/O Akhtar Husain, R/O Village- Jhikarua, Tola-
Meenapur, P.S.- Narhat, District- Nawada

... .. Petitioner

Versus

1. The State of Bihar
2. (ABC) D/o Md. Kurban Ansari R/o village- Jhikarua, Tola- Meenapur, P.S.-
Narhat, District- Nawada

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr. Rajeev Nayan, Advocate
For the Respondent/s	:	Mr. Amitesh Kumar, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 05-09-2022 Heard learned counsel for the petitioner and Mr. Amitesh
Kumar, learned APP for the State.

Notice has been duly served upon informant-O.P. No. 2
but no one has entered appearance.

The petitioner in this case is seeking setting aside of the
judgment dated 24.02.2022 passed by learned 1st Additional District
& Sessions Judge-cum-Special Judge, Nawada in Cr. Appeal
(Juvenile) No. 03 of 2022 whereby and whereunder the order dated
04.01.2022 rejecting the prayer for bail of the petitioner passed by
learned Principal Magistrate, Juvenile Justice Board, Nawada in
Narhat P.S. Case No. 51 of 2020 registered for the offences
punishable under Sections 376, 504, 506 of the Indian Penal Code
and Section 6 of the Protection of Children from Sexual Offences,
Act (in short 'POCSO Act') and Section 66(c) of the Information



Technology Act (In short 'I.T. Act') has been affirmed.

Learned counsel for the petitioner submits that although in the First Information report the informant has alleged that this petitioner is aged about 20 years and had forcibly taken her to a nearby old dilapidated house where he had committed rape upon her but the learned Juvenile Justice Board, Nawada has found that the petitioner is a juvenile aged about 16 years 6 months 26 days on the alleged date of occurrence. The victim-informant is aged about 17 years one month. In course of investigation, no naked video of the victim girl has been found, therefore, the allegations made in the FIR as regards the preparation of naked video has not been substantiated in course of investigation.

Learned counsel further submits that the petitioner and the informant are close door neighbours and it has also come in the social investigation report that the family of the informant was pressurising upon the family of the petitioner to solemnise marriage between the petitioner and the informant but the family of the petitioner was not agreeing for the same.

Learned counsel further submits that the alleged occurrence is said to have taken place on 12.03.2020 and in respect to the same a *panchayati* is said to have taken place on 14.03.2020 but the present FIR has been lodged 6 days after the alleged occurrence on 18.03.2020. It is submitted that the witnesses whose names are mentioned in paragraph '58' of the case diary and are also



named in the FIR by the victim has stated that the family of the informant was pressurising the family of the petitioner for marriage and on not agreeing for the same, the present FIR has been lodged. The petitioner is in remand home since 05.02.2021 and while in custody by order of the learned court below, he appeared in his matriculation examination and passed out in second division. It is, thus, submitted that to allow the petitioner to remain connected with the mainstream of the society and to pursue his studies, he may be released on bail.

Learned counsel submits that the mother of the petitioner is ready to stand as a surety and to furnish an undertaking that if released on bail she would ensure that the petitioner do not fall in bad company and he gets connected with the mainstream of the society.

Learned APP for the State has though opposed the prayer for bail of the petitioner but does not dispute that in paragraph '58' and some more paragraphs of the case diary, the persons named as members of the *panchayat* have made statements saying that the FIR has been lodged because the family of the petitioner was not agreeing to marry the petitioner with the victim girl. It is further not denied that the petitioner has passed out his matriculation examination while pursuing his studies from jail and in course of investigation, no naked video of the victim girl has been found.

Having regard to the submissions noted above and the materials available on the record, keeping in view the fact that the



petitioner has been adjudged juvenile and the social investigation report of the petitioner indicates that it may be a case of false implication and the FIR has been lodged 6 days after the alleged occurrence to put pressure upon the family of the petitioner and further keeping in view the spirit of Section 12 of Juvenile Justice (Care and Protection of Children) Act, 2015 and in view of the exceptions carved out by the Hon'ble Division Bench of this Court in the case of **Lalu Kumar and Ors. versus The State of Bihar** reported in **2019 (4) PLJR 833** that classification of the offences under the bailable and non-bailable sections would not be relevant for 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.”

this Court sets aside the impugned judgment 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, Nawada in connection with Narhat P.S. Case No. 51 of 2020.

One of the sureties should be the mother of the petitioner and she will also furnish an undertaking that if released on bail, the



petitioner shall not be allowed to come in contact of any bad element and in case the petitioner indulges in any unlawful act, he 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, Nawada 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.

The 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'.

