

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.340 of 2022**

Arising Out of PS. Case No.-3 Year-2022 Thana- MADHUBAN District- East Champaran

(XXX) Son of Chandrika Bhagat Resident of Village - Gheghawa, P.S. -
Madhuban, District - East Champaran.

... .. Petitioner

Versus

1. The State of Bihar
2. Ruby Devi Wife of Nagendra Prasad Resident of Village - Ward No. 01,
Gheghawa, P.S.- Madhuban, District - East Champaran.

... .. Opposite parties

Appearance :

For the Petitioner	:	Mr. Sanjay Kumar, Advocate
For the State	:	Mr. Navin Kumar Pandey, APP
For the Informant	:	Mr. Amit Bhushan, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

8 11-11-2022 Heard learned counsel for the petitioner, Mr. Navin
Kumar Pandey, learned APP for the State and Mr. Amit
Bhushan, learned counsel for the informant.

The petitioner in this case is seeking setting aside of
the order dated 22.04.2022 passed by learned 1st Additional
Sessions Judge-cum-Special Judge, Children Court, East
Champaran, Motihari in Criminal Appeal No.8 of 2022 which
has been preferred against the order dated 16.03.2022 passed by
the learned Juvenile Justice Board, Motihari in JJB Trial
No.1145 of 2022 in connection with Madhuban P.S. Case No.03
of 2022 registered under Sections 376AB, 354, and 506/34 of
the Indian Penal Code and Sections 4,6 and 8 of the POCSO Act



whereby and whereunder the learned Appellate Court has affirmed the order dated 16.03.2022 and refused to release the petitioner on bail.

Learned counsel for the petitioner submits that the First Information Report has been lodged by mother of the victim girl alleging therein that while her daughter was going for vending, this petitioner allured her and took her to a shop and committed rape on her. Learned counsel submits that it is further alleged that after committing rape the petitioner fled away and when her daughter was returning, on way one co-accused Roshan Kumar caught hold of her by hand which was noticed by some of the villagers and after giving some hand and fist blow to him they let him to flee away.

Learned counsel submits that the allegations are false and flimsy. Both the parties are close-door neighbours and over certain disputes and petty issues, a false case has been fabricated against the petitioner.

It is submitted that the medical examination report does not support any allegation of rape. It is further submitted that the petitioner is an active student of intermediate class, he has a bright future ahead and at this stage when he has already remained in protective custody for over 10 months but the case



is still pending for assessment under Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015, his release on bail would only help him in connecting with his studies and with the mainstream of the society.

It is submitted that the father of the petitioner is ready to furnish a surety and an undertaking that if released on bail he will keep the petitioner away from the victim girl and would ensure that he remains connected with his studies. He has otherwise no criminal antecedent.

Mr. Navin Kumar Pandey, learned APP for the State has though opposed the prayer for bail of the petitioner but submits that in the social investigation report no adverse material has been found against him. He is said to be involved in his studies and that he has been framed in this case.

Learned APP has informed that in the case diary there is no investigation on the point that the shop in question belongs to whom.

Learned counsel for the informant has opposed the prayer for bail of the petitioner and his only submission is that the victim girl has taken name of the petitioner in her statement under Section 164 Cr.P.C. Otherwise learned counsel for the informant does not dispute that both the parties are close-door



neighbours and they have got land disputes and further that the social investigation report of the petitioner does not carry any adverse material against him.

Considering the entire facts and circumstances of the case, the materials produced before this Court showing that the petitioner is a juvenile and in the social investigation report neighbours have suggested that it may be a case of framing him in the case, the medical examination report does not indicate any sign of rape and further the place of occurrence as alleged is a shop and according to the petitioner it is highly improbable that the victim girl will be taken to a shop premise and there he will commit a rape, the I.O. has not investigated as to whose shop is this, taking note of the social investigation report and that he is engaged in studies, as also following the spirit of Section 12 of the 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 physiology danger; and

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

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 Principal Magistrate, Juvenile Justice Board, East Champaran, Motihari in connection with Madhuban P.S. Case No.03 of 2022.

One of the sureties shall be the father of the petitioner and he will also furnish an undertaking that if released on bail, he will keep the petitioner away from the victim girl and would ensure that he remains connected with his studies 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, East Champaran, Motihari 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.

arvind/-

(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'.

