

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.369 of 2022

Arising Out of PS. Case No.-464 Year-2021 Thana- JAGDISHPUR District- Bhojpur

XXX Son of Shashi Bhushan Mishra Resident of Village - Mishra Toli,
Jagdishpur Ward No.- 6, P.S.- Jagdishpur, District - Bhojpur through his father
and natural guardian Shashi Bhushan Mishra (Age - 54 Years, Gender -
Male), Son of Nirmal Kumar Mishra, Resident of Village - Mishra Toli,
Jagdishpur Ward No.- 6, P.S.- Jagdishpur, District - Bhojpur.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner/s : Mr.Bhavesh Kumar, Advocate
For the Respondent/s : Mr.Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 03-11-2022 In view of the jointness affidavit filed on behalf of the

petitioner, let the notice on the O.P. No. 2 be taken to have been

validly served.

Heard learned counsel for the petitioner and Mr.
Fahimuddin, learned APP for the State.

Petitioner, in the present case, is a juvenile aged about

sixteen years ten months on the alleged date of occurrence. He

is seeking setting aside of the impugned judgment dated

15.02.2022 passed by Juvenile Justice Board, Bhojpur at Ara in

J.J.B. Case no. 1126 of 2021/88 of 2022 as well as the order

dated 13.04.2022 passed by learned 1st Additional Sessions

Judge (In-Charge) Bhojpur at Ara in Criminal Appeal No. 11 of

2022 in connection with Jagdishpur P.S. Case No. 464 of 2021



instituted under Sections 354, 354(B), 506 of the Indian Penal Code, under Section 12 of the Protection of Children from Sexual Offences Act, 2012 and under Section 67(b) of Information Technology Act.

Learned counsel for the petitioner submits that in this case the petitioner as well as the victim girl both are minors and they being close door neighbours had developed a love-affair. In course of investigation certain materials have been collected indicating that they had been in love-affair and perhaps in order to convince the father of the minor victim girl the alleged video was leaked.

Learned counsel further submits that this petitioner has no criminal antecedents and he has remained in protective custody since 16.12.2021. He is a student of Bachelor of Arts (Part I), therefore, his release would help in connecting with his studies and the mainstream of societies.

It is further submitted that his father is ready to stand as a surety and furnish an undertaking that if released on bail he would not allow the petitioner to come in contact with the victim girl and shall ensure that any act or omission constituting any offence committed by the petitioner shall be brought to the notice of the nearest police station.



Mr. Fahimuddin, learned APP for the State has gone through the case diary and the social investigation report. Learned APP submits that as per the report available with him, it seems to be a case of love affair between the two minors. There is no other compliant against the petitioner.

Having regard to the facts and circumstances of the case stated hereinabove in which this Court finds that this petitioner as well as the victim are minors and they are close door neighbours and the investigation has revealed that it is a case of love affair, his father is ready to stand as a surety and furnish an undertaking that if released on bail he will take care of the study of the petitioner and shall ensure that he will not come in contact with the victim girl and in case the petitioner indulges in any unlawful act, he will inform it to the jurisdictional police station as also following the spirit of 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. Vs. 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 order and directs release of the petitioner 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, Bhojpur at Ara in connection with J.J.B. Case No. 1126 of 2021/88 of 2022 arising out of Jagdishpur P.S. Case No. 464 of 2021.

One of the sureties should be the father of the petitioner who will furnish an undertaking as stated hereinabove.

The Probation Officer shall keep on visiting the place of the petitioner and shall submit periodical report to the Juvenile Justice Board, Bhojpur at Ara 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.

And further condition that the court below shall verify



the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(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'.

