

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.409 of 2022**

Arising Out of PS. Case No.-15 Year-2021 Thana- MAHILA P.S. District- Nawada

XXX, S/o Jawahar Chaudhary Resident of Village- Jarahiya, Police Station-
Sitamarhi, District- Nawada (Under legal guardianship of Jawahar Chaudhary,
S/o Bundi Chaudhary. Petitioner/s

Versus

1. The State of Bihar
2. XXX, D/o Guddu Chaudhary, R/o village-Murhena, P.S.-Rajauli, District-
Nawada. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Birendra Kumar, Adv.
For the State : Mr.Akhileshwar Dayal, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

5 11-11-2022 Heard learned counsel for the petitioner and Mr.
Akhileshwar Dayal, learned APP for the State.

The petitioner in this case is seeking setting aside of
the judgment/order dated 26.04.2022 passed by learned
Additional District & Sessions Judge-1st-cum-Special Judge,
Nawada passed in Cr.Appeal (Juvenile) Case No.05/2022
arising out of POCSO 31/2021/J.I. No.941/2021 in connection
with Nawada Mahila P.S. Case No.15/2021 dated 15.05.2021
registered under Sections 341, 323, 315, 376, 506 and 379 I.P.C.
and Section 4 of POCSO Act whereby and whereunder the
learned Additional District and Sessions Judge-1st-cum-Special
Judge, Nawada has been pleased to affirm the order dated
14.02.2021 passed by the Juvenile Justice Board, Nawada and
refused to enlarge the petitioner on bail.



Learned counsel for the petitioner submits that as per the First Information Report the victim girl and this petitioner met in village Jarahiya about three years ago and they had a conversation and love affair and they had been involved in physical relationship. According to the victim girl, this petitioner had promised her to marry. The victim alleges that because of the physical relationship which the petitioner had been continuously making with victim she had become pregnant whereafter she was taken for abortion. It is stated that the petitioner took the victim girl to his house on 24.05.2021 but there his mother and sister assaulted her and she was ousted from the house.

Learned counsel for the petitioner submits that both the petitioner as well as the victim girl are admittedly minors and the victim girl herself admits that there was a love affair between her and the petitioner. It is submitted that considering that both the parties are minors, it may be hardly stated that they had any understanding of the alleged act.

It is submitted that in course of investigation no medical document or chit of paper was produced showing that the victim was subjected to abortion. Otherwise no injury has been found on her body. The victim has made 164 Cr.P.C.



statement in which she has stated that there was a panchayati to resolve the dispute but after the panchayati fails she had come to court to make statement.

Learned counsel submits that the petitioner has been framed in this case only to put pressure upon him to solemnize marriage with the victim girl. The maternal uncle's house of the victim girl is in the village of the petitioner. It is submitted that in the social investigation report, the neighbours have given positive opinion about the petitioner, he has passed intermediate examination and is interested in further studies. Presently he is in protective custody since 21.09.2021 and the case is pending for framing of charge.

It is submitted that at this stage the release of the petitioner on bail would only help him in connecting with his studies and with the mainstream of the society. His father 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.

Although notice was issued to the informant-opposite party no.2 and it has been duly served, but the opposite party no.2 has not appeared to oppose this application.

Mr. Akhileshwar Dayal, learned APP for the State has



though opposed the prayer for bail of the petitioner but has submitted on going through the social investigation report and other material in his hand that it is a case of love affair between the two minors.

Considering the entire facts and circumstances of the case and the materials available on the record showing that the petitioner has been adjudged juvenile and the records speak that it is a case of love affair between the two minors, the petitioner has otherwise no criminal antecedent and the social investigation report shows good opinion about the petitioner 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, Nawada in connection with Nawada Mahila P.S. Case No.15 of 2021.

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, 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.

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'.

