

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.401 of 2022

Arising Out of PS. Case No.-504 Year-2021 Thana- GOPALGANJ TOWN District-
Gopalganj

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XXX Son of Santosh Chaurasiya @ Santosh Kumar Resident of Village -
Basdila bazar, (Basdila), P.s.- Gopalganj, Distt.- Gopalganj. Through his
father and Natural Guardian Santosh Chaurasiya @ Santosh Kumar , Male
aged about 44 Years Son of Om Prakash Prasad, Resident of Village - Basdila
Bazar, (Basdila), P.s.- Gopalganj, Distt.- Gopalganj.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Petitioner/s	:	Mr. Baxi S.R.P. Sinha, Sr. Advocate Mr.Lokesh Kumar Singh, Advocate
For the Respondent/s	:	Mr.Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 17-08-2022 Heard learned senior counsel assisted by Mr. Lokesh
Kumar Singh, learned counsel for the petitioner and Mr.
Akhileshwar Dayal, learned A.P.P. for the State.

Petitioner, in the present case, has been declared
juvenile aged about 17 years at the time of the alleged
occurrence. He is seeking setting aside of the impugned
order/judgment dated 22.03.2022 passed by learned Additional
Sessions Judge – I, Gopalganj in Criminal Appeal No. 38 of
2021 whereby and whereunder the learned appellate court has
affirmed the order of the Juvenile Justice Board, Gopalganj
refusing bail to the petitioner for the offences under sections
363, 366(A)/34 of the Indian Penal Code and Sections 8, 12 of



the POCSO. Petitioner has got two criminal antecedent as stated in paragraph '3' of the application.

Learned senior counsel for the petitioner submits that on bare perusal of the first information report and the materials collected in course of investigation, it would appear that the victim girl and the petitioner both are aged in between 17 – 18 years. They are neighbours and as per the prosecution story, the petitioner had taken the victim girl to his house forcibly but in her statement under section 164 Cr.P.C. the victim girl has not alleged commission of any indecent act against the petitioner. It is submitted that the victim girl has not alleged any sexual assault upon her by the petitioner and the medical examination report is also not suggesting any sexual assault upon the victim.

Learned senior counsel further submits that the social investigation report of the petitioner would disclose that he is having good relationship with his neighbours and he is said to have a positive mindset. It is lastly submitted that the father of the petitioner is ready to stand as a surety and furnish an undertaking that if released on bail he will ensure that the petitioner does not fall in bad company and in case he is found involved in any other and further offence, the same will be reported the jurisdictional police station. He will also furnish an



undertaking that the petitioner shall not try to come in contact with the victim girl.

Mr. Akhileshwar Dayal, learned A.P.P. for the State has though opposed the prayer for bail of the petitioner but it is not disputed that the victim girl has not alleged any sexual assault upon her. The medical examination report is also not disclosing commission of any such offence and the social investigation report of the petitioner indicates that he is having good behaviour.

Having regard to the materials placed before this Court particularly the statement under Section 164 Cr.P.C. and the observations of the Probation Officer in the social investigation report wherein nothing adverse has been indicated against the petitioner, the petitioner is in the observation home for more than ten (10) months, at this stage 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 does not fall in bad company and in case the petitioner indulges in any unlawful act, he will inform it to the jurisdictional police station and the petitioner shall not try to come in contact of the victim girl 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. 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, Gopalganj in connection with J.E. No. 173 of 2021 arising out of Gopalganj Town P.S. Case No. 504 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, 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, Gopalganj 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'.

