

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.530 of 2021**

Arising Out of PS. Case No.-187 Year-2020 Thana- IMAMGANJ District- Gaya

Sanjeet Kumar S/O Sri Prakash Bharti @ Prakash Bhuiyan Represented  
Through His Natural Guardian And Mother Smt. Vida Devi (F) Aged About  
43 Years W/O Prakash Bharti @ Prakash Bhuiyan, R/O Village-Dumari, P.S-  
Imamganj, District-Gaya.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr.Prithivi Raj Singh, Advocate  
For the Respondent/s : Dr. Kumar Uday Pratap, APP

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH**  
**ORAL ORDER**

4      24-03-2022                      Heard learned counsel for the petitioner and learned  
APP for the State.

Counsel for the petitioner is directed to remove the  
defect(s), as pointed out by the office, within a period of four  
weeks.

This criminal revision application has been preferred  
against the judgment dated 18.03.2021 passed in Criminal  
Appeal (Juvenile) No.20/2021 (C.I.S.), whereby and  
whereunder the learned Special Judge (Children Court), Gaya  
has affirmed the order dated 19.02.2021, whereby learned  
Juvenile Justice Board, Gaya has rejected the prayer for bail of  
the petitioner in connection with Imamganj P.S. case  
No.187/2020 registered for the offences under Sections 342,



366(A), 376/34 of the Indian Penal Code and Section 10 of the POCSO Act and Sections 66(D) of the I.T. Act.

The prosecution case, in brief, is that the petitioner raped the victim by tying her mouth and kept her in a house.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 12.10.2020 and has got no criminal antecedent. Charge sheet has been submitted in the present case. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has falsely been implicated in the present case. The victim has been recovered. Her statement under Section 164 Cr.P.C. has been recorded, wherein she has not levelled any allegation regarding commission of rape by the petitioner. She has not named the petitioner in the present case. The age of the victim has been assessed as 19 years. Hence, the provisions of POCSO Act is not applicable in the present case. The victim was examined by the doctor and the doctor has not found any sign of recent sexual intercourse. Learned counsel for the petitioner further submits that the mother of the petitioner is ready to furnish an undertaking that while on bail, she will not allow the petitioner to associate with criminals or anti-social elements. The petitioner has relied upon the judgment of **Lalu Kumar and**



**Ors. Vs. The State of Bihar (reported in 2019(4) PLJR 833),**

where a Division Bench of this Court while considering the scope of Section 12 of the Juvenile Justice Act, 2015 in paragraph No.84 of the judgment has observed the following:

“84. While interpreting Section 12, the Board is duty bound to be guided by the fundamental principles enumerated in Section 3 of the Act of 2015, specially the principles of ‘best interest’, ‘repatriation’ and ‘restoration’ of child. The fundamental principles in Section 3(xii) provides that a child shall be placed in institutional care as a step of last resort after making a reasonable inquiry. The gravity and nature of the offence are immaterial for consideration of bail under the Act of 2015. As per Section 12 of the Act of 2015, an application for bail is not decided by reference to classification of offences, as bailable or non-bailable under the Cr.P.C. All persons alleged to be in conflict with law and apparently a child when apprehended must be released except in the following three circumstances when there is reasonable ground for believing that:-

- (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 psychological danger; and
- (iii) The release would defeat the ends of



justice.”

Learned A.P.P. for the State is present and has opposed the prayer for bail of the petitioner.

Having regard to the facts and circumstances of the case, Social Investigation Report of the petitioner was called for from the concerned Probation Officer. From perusal of the Social Investigation Report, it appears that there is no material to substantiate that in the event of grant of bail, the petitioner is likely to go into association of known criminals or any anti-social elements.

The law requires that reasonable grounds should be there for believing that in the event of grant of bail, the petitioner would go into association of any ‘known criminal’ or exposed to moral, physical and psychological danger or the release of the person would defeat the ends of justice. There is no reference of any known criminal nor there is any other substantive material for the conclusion as recorded by the Court below.

Considering the facts and circumstances of the case as well as the findings of the Probation Officer in the Social Investigation Report of the petitioner and the proposition of law as stated above and also taking into account that the petitioner



has already remained in custody for more than seventeen months, this criminal revision application is allowed and the judgment dated 18.03.2021 passed in Criminal Appeal (Juvenile) No.20/2021 (C.I.S.) by the learned Special Judge (Children Court), Gaya and the order dated 19.02.2021 passed by the learned Juvenile Justice Board, Gaya in connection with Imamganj P.S. case No.187/2020, are set aside.

Let the petitioner, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of the mother of the petitioner on execution of surety bond of Rs.10,000/- (Rupees ten thousand) to the satisfaction of Juvenile Justice Board, Gaya in connection with Imamganj P.S. case No.187/2020, with the condition that the mother of the petitioner shall furnish an undertaking that while the petitioner is on bail, she will not allow the petitioner to come in company/association with any criminal or anti social elements that she will take proper care of the petitioner. Further the petitioner will be produced as and when required by the Court below and shall co-operate during the trial.

Narendra/-

**(Sudhir Singh, J)**

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