

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.527 of 2021**

Arising Out of PS. Case No.-88 Year-2020 Thana- SANOKHAR District- Bhagalpur

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AJEET KUMAR @ SURENDRA HARIJAN Son of Suren Harijan Resident of Village - Madarganj, P.S.- Amdanda, District - Bhagalpur. Under the Guardianship of this mother namely Shila Devi aged about 46 yrs Wife of Surendra Harijan @ Suran Harijan Resident of Village - Madarganj, P.S.- Amdanda, District - Bhagalpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Ranjan Kumar Jha, Advocate
For the Respondent/s	:	Mr.Jai Narain Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 07-03-2022 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 order dated 06.07.2021 passed in Criminal Appeal No.05/2021 arising out of Sanokhar (Amdanda) P.S. case No.88 of 2020, whereby and whereunder the learned 1st Additional District and Sessions Judge, Bhagalpur has affirmed the order dated 18.02.2021, whereby learned Juvenile Justice Board, Bhagalpur has rejected the prayer for bail of the petitioner in



connection with POCSO case No.80/2020 arising out of Sanokhar (Amdanda) P.S. case No.88 of 2020 registered for the offences under Sections 376, 504, 506/34 of the Indian Penal Code and Section 4 of POCSO Act.

The prosecution case, in brief, is that the petitioner entered into the house of the informant and on the point of knife committed rape upon her.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 11.08.2020 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 alleged occurrence is said to have taken place on 28.07.2020 and the case was instituted on 04.08.2020. Delay has not been explained by the prosecution. It has also been submitted that from perusal of the medical examination report of the victim, it is evident that there is no sign of rape found on the victim. The medical examination report does not support the allegations made in the F.I.R. 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, The Probation Officer in his report has reported that the petitioner has calm and innocent behaviour and has been implicated in this case due to land dispute between the parties. Further the report does not reveal that there is any 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, this criminal revision application is allowed and the order dated 06.07.2021 passed in Criminal Appeal No.05/2021 arising out of Sanokhar (Amdanda) P.S. case No.88 of 2020 by the learned 1st Additional District and Sessions Judge, Bhagalpur and the order dated 18.02.2021 passed by the learned Juvenile Justice Board, Bhagalpur in connection with POCSO case No.80/2020 arising out of Sanokhar (Amdanda) P.S. case No.88 of 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 learned Juvenile Justice Board, Bhagalpur in connection with POCSO case No.80/2020 arising out of Sanokhar (Amdanda) P.S. case No.88 of 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.

(Sudhir Singh, J)

Narendra/-

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