

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.571 of 2021

Arising Out of PS. Case No.-477 Year-2020 Thana- CHANPATIA District- West Champaran

1. ARMAN ANSARI Son and under natural guardianship of his father Sarfuddin Ansari R/o village- Khardeur, P.S.- Chanpatia, District- West Champaran
2. Shamshad Ansari Son and under natural guardianship of his father Akalu Ansari R/o village- Khardeur, P.S.- Chanpatia, District- West Champaran

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Sanjeev Kumar Shrivastava, Adv.
For the Respondent/s	:	Mr.Mohammad Sufyan, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 09-03-2022 Heard learned counsel for the petitioners and
learned APP for the State.

Learned counsel for the petitioners is permitted to make necessary correction in first paragraph of the petition in course of the day.

This Criminal Revision has been preferred against the judgment dated 28-07-2021 passed by the learned Sessions Judge, Bettiah, West Champaran in Criminal Appeal No. 04 of 2021, whereby and where under the learned Sessions Judge, Bettiah, West Champaran has upheld the order dated 28-01-2021 passed by the Juvenile Justice Board, Bettiah, West Champaran in J. J.B. Case No. 606 of 2020 arising out of



Chanpatia P.S. case No. 477 of 2020, whereby learned Juvenile Justice Board, Bettiah, West Champaran has rejected the prayer for bail of the petitioner in connection with J. J.B. Case No. 606 of 2020 arising out of Chanpatia P.S. case No. 477 of 2020, registered under Sections 341, 342, 376(G), 504/34 of the Indian Penal Code read with Section-67 of I.T. Act and 4/6 of POCSO Act.

Allegation is that the petitioner No. 1 gagged mouth of the informant and caught her hand whereas petitioner No. 2 is said to have disrobed her. The co-accused Rustam is alleged to have made video and committed rape upon the victim.

It has been submitted on behalf of the petitioners that the petitioners are in custody since 21-09-2021 and have got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioners. There is allegation of commission of rape upon the victim by the accused persons but from perusal of the medical examination report of the victim, which is at paragraph-34 of the case diary shows that no injury was found on the body of the victim. The age of the victim is said to be 17-19 years. Learned counsel for the petitioners further submits that the guardian of the petitioners are ready to furnish an undertaking that while on bail, he will not allow the



petitioners to associate with criminals or anti-social elements.

The petitioners have 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 released 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 petitioners.

Having regard to the facts and circumstances of the case, Social Investigation Report of the petitioners was called for from the concerned Probation Officer. The Probation Officer in his report has reported that the neighbours of the petitioners have not made any adverse remarks against them. The petitioners have got no criminal antecedent. The report also reveals that for further study, it is appropriate to release them under the supervision of their guardians. 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 substantial 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 judgment dated 28-07-2021 passed by the learned Sessions Judge, Bettiah, West Champaran in Criminal Appeal No. 04 of 2021 and the order dated 28-01-2021 passed by the Juvenile Justice Board, Bettiah, West Champaran in J. J.B. Case No. 606 of 2020 arising out of Chanpatia P.S. case No. 477 of 2020 are set aside.

Let the petitioners, who have already been declared juvenile by the learned Juvenile Justice Board, be released in favour of their natural guardian on execution of surety bond of Rs.10,000/- (Ten Thousand) to the satisfaction of learned Juvenile Justice Board, Bettiah, West Champaran in J. J.B. Case No. 606 of 2020 arising out of Chanpatia P.S. case No. 477 of 2020 with condition that their natural guardian shall furnish an undertaking that while the petitioners are on bail, he will not



allow the petitioners to come in company/association with any criminal or anti-social elements that he will take proper care of the petitioners. Further the petitioners will be produced as and when required by the court below and shall cooperate during the trial.

(Sudhir Singh, J)

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