

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4071 of 2021**

Arising Out of PS. Case No.-60 Year-2021 Thana- BELHAR District- Banka

Sonu Kumar @ Sohan Kumar Son Of Shivcharan Yadav R/O Village- Ram
Nagar Taratand, P.S.- Belhar, District- Banka

... .. Appellant/s

Versus

1. The State of Bihar
2. Sulochana Devi Wife Of Prempal Pandit R/O Village- Ram Nagar Taratand,
P.S.- Belhar, District- Banka

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Raja Ram Mishra Mr. Sanjeev Kumar Nirala
For the Respondent/s	:	Mr.Syed Ashfaque Ahmad

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

3 23-03-2022 Heard learned counsel for the appellant and the State.

The present memo of appeal has been filed on behalf of appellant for grant of bail against the order dated 03.08.2021 passed by learned Additional District & Sessions Judge Ist-cum-Children Court, Banka in connection with Belhar PS Case No. 60 of 2021 registered for the offence punishable under Section 376 of the Indian Penal Code and section 4 of the POCSO Act, whereby the prayer for bail of the appellant was rejected.

As per the prosecution case, appellant is alleged to have committed rape with daughter of informant's sister aged about 6 years who was residing with informant.

It is submitted on behalf of the appellant that



appellant is innocent and has committed no offence. Medical report does not support the allegation levelled in the FIR. It is further submitted that appellant has been declared juvenile by the Juvenile Justice Board and his age has been assessed as 17 years 2 months and 14 days on the alleged date of occurrence. It is next submitted that the bail application of appellant has been decided by the court below on the merit, nature and gravity of the offence, whereas, once appellant has been declared juvenile his case was required to be considered in the light of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the 'Act'). It is further submitted that family members of appellant undertake to take care of this appellant and will not allow him to go into the association of criminals and his further detention in observation home is not required. Appellant is having clean antecedent and he is in custody since 18.02.2021.

However, Counsel for the State opposed the prayer for bail.

It is settled law that a juvenile has to be released on bail unless the court has reasonable ground to believe that his release will bring him into association of some known criminals or will expose him to mortal, physical or psychological danger or his release would defeat the ends of justice.



Rejection of application for grant of bail by making a detailed enquiry into the nature and gravity of allegation would be completely contrary to statutory provision of Section 12 of the Act.

In this case, no reasonable ground has been mentioned by the court below for believing that the release of the appellant is likely to bring him into association of known criminals or any material has been brought on record by the prosecution for deciding whether any ground has been made out to reject the application, which has been mentioned under Section 12 of the Act. Once those ground are not made out, only consequence is release of juvenile.

In this case impugned order shows that even social investigation report was not called for,

Considering the aforesaid facts and circumstances as well as the position of law as stated above, the order dated 03.08.2021 passed by learned Additional District & Sessions Judge Ist-cum-Children Court, Banka, is set aside and this criminal appeal is allowed.

Accordingly, let the appellant above-named, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge Ist-cum-Children Court, Banka in connection with Belhar PS



Case No. 60 of 2021, *subject to condition that one of the bailor would be parent/family member of the appellant, who would file an affidavit giving an undertaking to the effect that he will take care of good behaviour and child's well being and will not allow him to go in the company of bad elements.*

(Prabhat Kumar Singh, J)

vinita/-

U		T	
---	--	---	--

