

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.652 of 2021

Arising Out of PS. Case No.-101 Year-2021 Thana- SONEPUR District- Saran

=====

MONU KUMAR @ MUNNA KUMAR S/o- SHAMBHU RAI Resident of
Village- Sabalpur Newal Tola, P.S.- Sonapur, District- Saran.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

=====

Appearance :

For the Petitioner/s : Mr.Subodh Kumar Jha, Advocate
For the Respondent/s : Mr.Md. Fahimuddin, APP

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 11-07-2022 Heard learned counsel for the petitioner and Md.
Fahimuddin, learned A.P.P. for the State.

Petitioner, in the present case, has been adjudged juvenile aged about 16 years 11 months and 25 days on the alleged date of occurrence. He is seeking setting aside of the judgment dated 09.08.2021 passed in Cr. Appeal No. 18/2021 by learned 1st Additional Sessions Judge – cum – Children Court, Saran at Chapra by which the appeal preferred by the petitioner against the order dated 10.05.2021/10.06.2021 passed by the Juvenile Justice Board, Saran at Chapra in connection with J.J.B. No. 1074/2021 instituted under Section 376(D) I.P.C. for bail has been rejected and confirmed the order of the J.J.B., Saran at Chapra.

Mr. Subodh Kumar Jha, learned counsel for the petitioner submits that it is a case of false implication of the



petitioner who has otherwise no criminal antecedent.

Learned counsel has taken this court through the fardbeyan of the victim. It is submitted that in this case the victim is admittedly major. In the fardbeyan she has declared her age as 18 years, subsequently in the medical examination report she has been found aged about 22 years. Learned counsel submits that on perusal of the fardbeyan itself, it will appear that a highly improbable kind of allegations have been made. The victim alleges that she had a quarrel with her mother on 21.02.2021 and thereafter she left her village and took a train from which she reached Sonapur Station. She claims that it was about 7:30 P.M. when she was totally perplexed as to where to go and she came outside the station and reached near a school, thereafter one Papaya vendor offered her to get Papaya but she refused, in the meanwhile two boys came on a motorcycle and after knowing about her they asked her to come with them on the motorcycle. The victim says that she sat on the motorcycle with those two boys who took her with them to a village where a car was standing. The boys who were on motorcycle were calling their names as Sonu and Monu. It is alleged that Sonu asked her to sit in the car whereafter she sat in the car and the said car was being driven by an another boy. This petitioner was



also in the car and they took her to a lonely place from where she was taken to a house situated at the end of the village and there they committed rape on her and then left her at Sonapur Station at 12:30 A.M. She claims that in the morning she contacted her house after taking mobile of one person and told everything to her parents whereafter her parents came and took her to police station and then her statement was recorded.

Learned counsel submits that the police claims to have seized the cloths of the victim and the cloths were sent to the F.S.L. The victim was also examined by an expert medical team. The medical opinion is available at Annexure '4'. According to the medical opinion, no sign of injury over her body could be found. The doctor did not find any evidence of recent sexual occurrence and the informant was not having any other sign of forceful sexual assault.

Learned counsel further submits that the F.S.L. report categorically says that "blood could not be detected in any of the Exhibits marked as A, B & C" and "semen could not be detected in any of the Exhibits marked as A, B & C".

Learned counsel further submits that in her 164 Cr.P.C. statement she says that while she was going alone after being left at Sonapur Station then police came and intercepted



her. It is submitted that this version of the prosecutrix materially differs with her allegation in the F.I.R. that she gave a call to her parents, they came and then F.I.R. was lodged.

Learned counsel submits that the social investigation report of the petitioner would show that the petitioner belongs to a good family but he seems to have fallen in bad company. It is his submission that his father 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 getting involved in any offence he will report it to the jurisdictional police station. The petitioner is in observation home since 13.03.2021. It is, thus, his submission that considering the spirit of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the “Act of 2015”) as also the judgment of the Hon’ble Division Bench of this Court in the case of **Lalu Kumar and Ors. versus The State of Bihar** reported in **2019 (4) PLJR 833**; the petitioner may be released on bail so that he may be connected with the mainstream of the society.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner. It is submitted that he is a juvenile and it appears that he has fallen in bad company, therefore, in his



interest the petitioner should remain in the observation home.

Having regard to the submissions and the materials available on the record as this court notices that the informant has been found to be major whereas this petitioner is a juvenile and the medical examination report as well as F.S.L. report are not corroborating the allegations of rape and further 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 remains connected to his studies and the mainstream of the society, this court is of the considered opinion that keeping in view the spirit of Section 12 of the Act of 2015 and the ratio of the judgment of the Hon'ble Division Bench of this Court in the case of **Lalu Kumar** (*supra*) wherein the Division Bench has held that classification of the offence whether bailable or non-bailable is totally insignificant and a juvenile must be granted bail unless one of the following three conditions are present:-

“(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.”

The petitioner deserves to be released on bail. The impugned judgment is, thus, set-aside and the petitioner is



directed to be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand) with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Saran at Chapra in connection with J.J.B. No. 1074 of 2021 arising out of Sonepur P.S. Case No. 101 of 2021.

Subject to condition that the one of the sureties shall be the father of the petitioner and will furnish an undertaking as stated hereinabove.

The Probation Officer attached to the Juvenile Justice Board, Saran at Chapra shall keep the vigil over the conduct of the petitioner and shall keep on submitting his periodical report to the Juvenile Justice Board, Saran at Chapra.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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

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'.

