

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.627 of 2021**

Arising Out of PS. Case No.-218 Year-2019 Thana- DAUDPUR District- Saran

XXX Son of Pramod Singh @ Kuldeep Singh Through his guardian namely -
Babita Devi, Female Age 39 years Wife of Kuldeep Singh, Both Resident of
Village - Kohara Bazar, P.S.- Daudpur, Distt.- Saran at Chapra

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Chandra Mohan Jha, Advocate
For the Respondent/s	:	Mr. Akhileshwar Dayal, APP
For the Informant	:	Mr. Kumar Binod Bariar, Advocate Mr. Rananjay Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 11-11-2022 Heard learned counsel for the petitioner, Mr. Akhileshwar Dayal, learned APP for the State and Mr. Kumar Binod Bariar, learned counsel representing the informant.

Petitioner in the present case is seeking setting aside of the order dated 13.04.2021 passed in Cr. (Juvenile) Appeal No. 09 of 2020 by learned A.D.J. I cum- Children Court, Saran at Chapra whereby and whereunder the order refusing bail to the petitioner dated 12.02.2020 passed by learned Juvenile Justice Board, Saran at Chapra in J.E. No. 386 of 2019 arising out of Daudpur P.S. Case No. 218 of 2019 dated 11.10.2019 under Sections 341, 323, 376(D), 447, 506, 34 of the Indian Penal Code and Section 4/6 of POCSO Act has been affirmed.

Learned counsel for the petitioner submits that as per



the first information report the allegation is that the petitioner and four other co-accused had forcibly committed rape upon the victim girl. It is, however, submitted that in course of her statement under Section 164 Cr.P.C., she alleged that three persons have committed rape while two had been keeping hold on her at the time of occurrence. Learned counsel submits that two of the accused persons namely Ritesh Kumar and Pankaj Kumar Gupta @ Pankaj Kumar Shah who were not juveniles have been released on bail in Cr. Misc. No. 15041 of 2020 and Cr. Misc. No. 16994 of 2020 respectively.

Learned counsel submits that so far as the present petitioner is concerned, he has been adjudged juvenile aged about 14 years 7 months and 13 days on the alleged date of occurrence. He is, thus, less than 16 years old and in his case, an enquiry is going on in the learned Juvenile Justice Board, but the petitioner has remained in the protective custody for over two years.

It is submitted that in first stage, he had remained in the observation home from 23.10.2019 to 19.03.2020 whereafter during corona period he was granted leave and he returned on 31.03.2021 whereafter he is continuously there in the observation home. It is submitted that petitioner is a student and



if released on bail, he may connect with his studies. He has otherwise no criminal antecedent.

Mr. Akhileshwar Dayal, learned APP for the State submits that the petitioner is a student of intermediate class and it has come in the social investigation report that he had been taking examinations of and on after obtaining leave from the Board. Regarding his conduct, some of the co-villagers have stated that his conduct is normal but some of them have complained about his conduct and it seems that the parents have lost control over the boy.

Mr. Bariyar, learned counsel for the O.P. No. 2 submits that the enquiry is on the verge of conclusion and the I.O. is only left to be examined.

Having heard learned counsel for the parties and on perusal of the records, finding that the petitioner has been adjudged juvenile aged about 14 years 7 months and 13 days which is less than 16 years and the case is still under enquiry whereas he has remained in the protective custody for over two years and it is stated that he is a student of intermediate class, considering that the petitioner has already spent considerable period in the observation home and the maximum period for which he may be kept there is three years, however, at this



stage, the enquiry has not been completed and he is also said to be engaged in studies and further that his mother is ready to furnish an undertaking and stand as a surety as also following the spirit of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and in view of the exceptions carved out by 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** that classification of the offences under the bailable and non-bailable sections would not be relevant for purpose of grant of bail to a juvenile and the prayer for bail of a juvenile may be rejected only under one of the three conditions as under:-

- “(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 physiology danger; and
- (ii) The release would defeat the ends of justice.”

this Court sets aside the impugned order and directs release of the petitioner above named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Saran at Chapra in connection with Daudpur P.S. Case No. 218 of 2019.

One of the sureties shall be the mother of the



petitioner who will furnish an undertaking that after release of the petitioner on bail, he would not be allowed to come in contact with the victim girl and further in case, the petitioner is found involved in commission of any offence, the same will be reported to the jurisdictional police station and during this period, the Probation Officer attached to the Board shall keep visiting the place of the petitioner and shall submit periodical report to the Juvenile Justice Board, Saran at Chapra and in case the conduct of the petitioner is found suspicious the same will also be reported to the Board for necessary action.

This application stands allowed.

(Rajeev Ranjan Prasad, J)

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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'.

