

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.633 of 2021

Arising Out of PS. Case No.-175 Year-2019 Thana- ROH District- Nawada

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MADHUSUDAN KUMAR @ RUPESH KUMAR S/o- SANJAY YADAV
Under legal guardianship of Sanjay Yadav Father of Petitioner), Resident of
Village- Mahkar, Post Office- Siur, Police Stastion- Roh, District- Nawada.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Birendra Kumar, Adv.

For the Respondent/s : Mr.Uma Shankar Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

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

Learned counsel for the petitioner is directed to
remove the defect(s), as pointed out by the office, within a
period of four weeks.

Re: I.A. No. 01 of 2021

This interlocutory application has been filed for
condonation of delay in filing the present Cr. Revision.

Considering the grounds taken in the application, this
I.A. No. 01 of 2021 is ***allowed***.

The delay in filing Cr. Revision is ***condoned***.

This Criminal Revision has been preferred against the
judgment dated 22-03-2021 passed by the learned Additional



Sessions Judge-Ist-cum-Special Judge, Nawada in Criminal Appeal (J) No. 16 of 2020, whereby and where under learned Additional Sessions Judge-Ist-cum-Special Judge, Nawada has affirmed the order dated 05-10-2020 passed by learned Juvenile Justice Board, Nawada in Roh P.S. Case No. 175 of 2019, whereby learned Juvenile Justice Board, Nawada has rejected the prayer for bail of the petitioner in connection with Roh P.S. Case No. 175 of 2019, registered under Section 366(A/34 of the Indian Penal Code.

Allegation is that the petitioner forcefully abducted the minor daughter of the informant and put vermilion in Maang of the victim. The petitioner committed rape upon the victim and also took her to Tamilnadu.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 04-06-2020 and has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has been falsely implicated in the present case. There was a love affairs between the parties. The victim had left the house with her own will. 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 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 petitioner. It has been submitted that the statement of the victim is in paragraph-16 of the case diary recorded under Section-164 of Cr.P.C. The victim has made specific allegation of abduction and commission of rape against 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 ample reformation is required in petitioner's behaviour. The petitioner is required to be kept him in observation home. Further, there is moral and physical danger to the petitioner, in case he is released on bail.

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 dismissed.

The court below is directed to take all necessary steps to conclude the trial preferably within a period of six months



from the date of receipt/production of copy of the order taking
into account that the Juvenile is in custody since 04-06-2020.

(Sudhir Singh, J)

A.K.V.//-

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