

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.679 of 2021

Arising Out of PS. Case No.-457 Year-2020 Thana- WAJIRGANJ District- Gaya

INDRAJEET MANJHI @ INDRAJEET KUMAR Son of Rambali Manjhi
Under the guardian of Rambali Manjhi, Resident of Village - Kariyadih, P.S.-
Wajirganj, Distt.- Gaya.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner/s : Mr.Binay Kumar Singh, Advocate
For the Respondent/s : Mr.Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 07-07-2022

Heard learned counsel for the petitioner.

Mr. Shyameshwar Dayal, learned A.P.P. who has been assigned this brief has not appeared. Just to complete the formality Mr. Akhileshwar Dayal, learned A.P.P. is present. This is happening almost everyday that the learned A.P.P. who is assigned with the brief does not appear to assist this court. The court is left with no option but to complete the formality by recording the name of learned A.P.P. who is present in the court.

Petitioner, in the present case, is seeking setting aside of the impugned order dated 24.03.2021 and judgment dated 19.07.2021 passed in POCSO Case No. 107/2020, Misc. No. 46/2021 arising out of Wajirganj P.S. Case No. 457/2020, registered for the offence under Sections 376D, 342/34 of the Indian Penal Code, and section 6 of the POCSO Act by which



the learned Special Judge (Children Court), Gaya has pleased to reject the prayer for regular bail of the petitioner.

The allegation against the petitioner is that he along with his friends had committed rape on the victim girl. According to the F.I.R., on 18.09.2020 at about 12:10 in the night hour when the victim girl had gone outside her house to ease out, three persons came there and caught hold of her and took her to an unknown place where all the three committed rape on her. She knew one of them namely, Indrajeet Manjhi (the petitioner). She alleged that she was left at her house at about 3:00 A.M. then she disclosed this fact to her family members.

Learned counsel for the petitioner submits that in her 164 Cr.P.C. statement the victim girl has not stated about gang rape. She has stated that when she came outside her house to ease out one Narjot then she says Indrajeet came there and pressed her mouth, one more boy was with him. There were two people. They took her to the neighbouring house where this petitioner Indrajeet Manjhi committed rape on her and kept there for the whole night. She returned home at 6:00 A.M. and during the whole night her parents, uncle and aunt were searching her.



Learned counsel submits that in the social investigation report the Probation Officer has reported that this boy and the victim girl were reportedly in love with each other and he came to know in course of inquiry that the boy and the girl had established physical relationship earlier also. In the night they were sleeping together in a vacant house of a neighbour which fact came to the notice of the family of the victim girl and thereafter they pressurized the victim girl to lodge the F.I.R. The Probation Officer has further reported that there were disputes between the petitioner and the family of the victim girl particularly with the uncle of the victim girl. The friends of this petitioner disclosed that petitioner has a good nature. The neighbour also disclosed that the petitioner is a good natured boy, disciplined and the neighbours did not complain anything against the petitioner. The petitioner earns his livelihood by working as a daily wager in the bricklin. The Probation Officer has, thus, concluded that on the basis of social investigation it transpires that the alleged occurrence is a result of immature relationship between the two minors.

Learned counsel relies upon a Division Bench judgment of this Court in the case of **Lalu Kumar and Ors. versus The State of Bihar** reported in **2019 (4) PLJR 833** to



submit that the 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.”

This court has perused the social investigation report which is available on the record and finds substance in the submission of learned counsel for the petitioner.

Having regard to the submissions noted hereinabove and the materials present in the social investigation report which has been discussed hereinabove and the fact that the petitioner is said to be a juvenile of about 14 years of age and has already remained in observation home for about one and half year, his father is ready to stand as a surety and furnish undertaking that if released on bail the petitioner shall not be allowed to come in contact with any unwanted person and antisocial elements and he will ensure that the petitioner connects himself in the mainstream of the society, this court sets-aside the impugned judgment 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 Special Judge (Children Court), Gaya in connection with POCSO Case No. 107/2020, Misc. No. 46/2021 arising out of Wajirganj P.S. Case No. 457/2020.

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, Gaya shall keep the vigil over the conduct of the petitioner and shall keep on submitting his periodical report to the Juvenile Justice Board, Gaya.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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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'.

