

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.682 of 2021

Arising Out of PS. Case No.-91 Year-2019 Thana- PANDAU District- Madhubani

SURAJ KUMAR JHA @ SAGAR KUMAR JHA Son of Subir Jha @ Maini Jha (Occurrence time aged 16 Year 4 days) Resident of Village - pandaul, Budhan Jha Tole, P.S.- Pandaul, Distt.- Madhubani. Under Guardianship of his mother namely Gauri Devi aged about Years Wife of Subir Jha @ Maini Jha Resident of Village - Pandaul, Budhan Jha Tole, P.S.- Pandaul, Distt.- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ravi Prakash, Advocate
For the Respondent/s : Mrs. Pushpa Sinha, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 20-05-2022 Heard learned counsel for the petitioner and learned APP for the State through virtual mode.

This criminal revision application has been preferred against the order dated 30.06.2020 passed in G.R. No. 34 of 2019, by which the learned 1st Additional District & Sessions Judge-cum- Special, POCSO Act, Madhubani has rejected the prayer for bail of the petitioner arising out of Pandaul P.S. Case No. 91 of 2019 registered for the offences under sections 376(2)(f) of the Indian Penal Code and 12 of POCSO Act.

The prosecution story, in brief is that the informant left her daughter with the petitioner and when she returned back, she saw her daughter crying and blood was oozing from her



private part. The informant alleges that the petitioner has committed rape on her daughter.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 08.05.2019 and has got no criminal antecedent. Charge-sheet has been submitted in the present case. There is no allegation of tampering alleged against the petitioner. The petitioner has falsely been implicated in the present case. Despite, the petitioner being declared juvenile on the date of occurrence, he has remained in custody for more than three years. Learned counsel for the petitioner further submits that the mother of the petitioner is ready to furnish an undertaking that while on bail, she will not allow the petitioner to associate with criminals or anti-social elements. 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 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 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.

Having regard to the facts and circumstances of the case, Social Investigation Report of the petitioner was called for from the concerned Probation Officer. From perusal of the report, it appears that there is no material to substantiate that in the event of grant of bail, the petitioner is likely to go into association of known criminals or any anti-social elements.

The law requires that reasonable grounds should be there for believing that in the event of grant of bail, the petitioner would go into association of any ‘known criminal’ or exposed to moral, physical and psychological danger or the release of the person would defeat the ends of justice. There is no reference of any known criminal nor there is any other



substantive material for the conclusion as recorded by the Court below.

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, the proposition of law as stated above and the period of custody undergone by the petitioner, this criminal revision application is allowed and the judgment dated 30.06.2020 passed in G.R. No. 34 of 2019, by learned 1st Additional District & Sessions Judge-cum- Special, POCSO Act, Madhubani in connection with Pandaul P.S. Case No. 91 of 2019, is set aside.

Let the petitioner, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of mother on execution of surety bond of Rs. 10,000/- (ten thousand) to the satisfaction of learned 1st Additional District & Sessions Judge-cum- Special, POCSO Act, Madhubani in connection with Pandaul P.S. Case No. 91 of 2019 with the condition that the mother of the petitioner shall furnish an undertaking that while the petitioner is on bail, she will not allow the petitioner to come in company/association with any criminal or anti social elements that she will take proper care of the petitioner. Further the petitioner will be produced as and when required by the Court below and shall



cooperate during the trial.

(Sudhir Singh, J)

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