

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.721 of 2021

Arising Out of PS. Case No.-108 Year-2020 Thana- SAHIYARA District- Sitamarhi

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XXX, Son of Rambabu Sahni Resident of Village - Hanumannagar Tola Laxmipur Ward No. -1, P.S. - Sahiyara, District - Sitamarhi. Under the Guardianship of His Mother Chinta Devi Wife of Rambabu Sahni, Resident of Village - Hanumannagar Tola Laxmipur Ward No. -1, P.S. - Sahiyara, District - Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Virendra Kumar, Adv.
For the Respondent/s : Mr.Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 12-07-2022 Heard learned counsel for the petitioner and learned APP
for the State.

Petitioner in the present case is seeking setting aside of the impugned judgment dated 29.07.2021 passed by learned 1st Additional Sessions Judge-cum-Special Judge (Children's Court) Sitamarhi in connection with Sahiyara P.S. Case No.108 of 2020 registered under Sections 376/34 of the Indian Penal Code and Section 3/4 of the POCSO Act whereby and whereunder the learned Sessions Judge has rejected the prayer for bail of the petitioner.

As per the prosecution story, the informant submitted a written report to the SHO of Sahiyara police station on 28.09.2020 at about 16.05 hours alleging inter-alia that in the previous night on 27.09.2021 at about 3.00 am her co-villagers Govind Sahni and this



petitioner entered into her house and when the informant tried to raise alarm then they tied the mouth of informant with her Dupatta and committed rape with her one by one and threatened her not to disclose about this occurrence to anyone otherwise they would shot her dead.

Learned counsel for the petitioner submits that the petitioner has been declared juvenile on the alleged date of occurrence. The petitioner is in observation home for more than one and half year and his mother is ready to stand as surety and give an undertaking that if released on bail, the petitioner shall not be allowed to come in contact of any bad element and in case the petitioner indulges in any unlawful act, she will inform it to the jurisdictional police station.

It is further submitted that in the case of **Lalu Kumar and Ors. versus The State of Bihar** reported in **2019 (4) PLJR 833** the Hon'ble Division Bench of this Court in paragraph '84' of the judgment has carved out three exceptions in which prayer for bail of a juvenile may be denied which are 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.”

Learned APP for the State has opposed the prayer for bail of the petitioner.



Having regard to the submissions and the materials available on the record showing that the petitioner has been adjudged juvenile on the alleged date of occurrence, he is in observation home for more than one and half year and the report received from the learned Children Court shows that the case is still pending for hearing on framing of charge, keeping in view the spirit of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and keeping in view the exceptions carved out by the Hon'ble Division Bench of this Court in the case of **Lalu Kumar (supra)** and the social investigation report of the petitioner which shows that he had fallen into the instigation of the co-accused Govind kumar who is major and he is normally disciplined and earns his livelihood by selling clothes because of the poor family conditions and his mother is ready to stand as surety and give an undertaking that if released on bail, the petitioner shall not be allowed to come in contact of any bad element, 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, Sitamarhi in connection with Sahiyara P.S. Case No.108 of 2020. One of the sureties should be the mother of the petitioner and she will also furnish an undertaking that if released on bail, the petitioner shall not be allowed to come in contact of any bad element and in case the petitioner indulges in any unlawful act, she will



inform it to the jurisdictional police station.

The Probation Officer shall keep on visiting the place of the petitioner and shall submit periodical report to the Juvenile Justice Board, Sitamarhi as regards the conduct of the petitioner. If anything adverse is found against the petitioner, the same will also be reported to the Board for necessary action.

The application stands disposed of accordingly.

(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'.

