

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.747 of 2021

Arising Out of PS. Case No.-10 Year-2021 Thana- IMADPUR District- Bhojpur

XXX S/o Late Sudam Ram Resident of Village - Vishnupura, P.S. - Imadpur,
District - Bhojpur.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner/s : Mr.Manoj Kumar, Advocate

For the Respondent/s : Mr.Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 22-06-2022 Heard learned counsel for the petitioner and Mr.
Jitendra Kumar Singh, learned A.P.P. for the State.

Petitioner, in the present case, is seeking setting aside of the judgment dated 03.08.2021 passed in Criminal Appeal No. 34 of 2021 by learned Additional Sessions Judge - 1st – cum – Children Court, Bhojpur at Ara against the order/judgment dated 19.02.2021 passed by J.J. Board, Bhojpur at Ara vide J.J.B. No. 921/2021, arising out of Imadpur P.S. Case No. 10 of 2021 registered for the offence under Section 376 of the Indian Penal Code and under Section 4/8 of the POCSO Act.

Learned counsel for the petitioner submits that as per the first information report the petitioner has committed rape on the daughter of the informant when she had gone to take water from the hand-pump. Learned counsel submits that this petitioner has been adjudged juvenile aged about 14 years 7



months and 9 days on the alleged date of occurrence. It is submitted that according to the informant, the petitioner had lifted the daughter of the informant and had taken her to a lonely place where he committed the alleged wrong act but it is *prima-facie* not believable that the victim girl who was aged about 13 years may be forcibly lifted by a boy who is about fourteen and half years old and then he may alone overpower the girl and commit rape on her.

Learned counsel further submitted that on perusal of the impugned judgment it would appear that the learned appellate court has gone into unnecessary details discussing the charge-sheet and has gone on to record that the charge-sheet discloses a *prima-facie* case. It is submitted that the learned appellate court has well noticed that the petitioner has been found aged about fourteen and half years but the court failed to appreciate that what would be the maximum period for which the petitioner may be kept in the observation home for the alleged offence.

Learned counsel further submits that 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** the Hon'ble Division Bench has held in the said case that



while considering the prayer for bail of a juvenile, 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.”*

It is also pointed out that this petitioner happened to be a student of Class IX and had appeared in the examination under the order of J.J.B. Ara at Bhojpur, therefore he may be released on bail at this stage in order to allow him to pursue his studies and remain connected with the mainstream of the society. In absence of his father, the uncle of the petitioner who is in government service is ready to stand as a surety and furnish an undertaking that if released on bail he would ensure that the petitioner does not fall in any bad company and shall pursue his studies.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner. It is submitted that the petitioner has allegedly committed rape on the victim girl who is said to be a deaf.

Having regard to the submissions noticed



hereinabove, particularly that the petitioner has been adjudged juvenile aged about 14 years 7 months on the alleged date of occurrence and he has appeared in Class IXth examination under the order of J.J.B., Ara at Bhojpur and his uncle is in government service who is ready to stand as a surety and furnish an undertaking as recorded hereinabove and following the judgment of the Hon'ble Division Bench of this Court aforesaid, 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 Principal Magistrate, Juvenile Justice Board, Ara at Bhojpur in connection with Imadpur P.S. Case No. 10 of 2021.

This Court has been informed that the uncle of the petitioner is ready to stand as a surety and submit an undertaking to the effect that if released on bail, he would ensure that the petitioner does not stay in that village where the girl is staying and he will ensure that the petitioner continues with his studies so that he may be connected with the mainstream of the society and in case, the petitioner is found involved in any offence hereafter, he will immediately report to the jurisdictional police station.



The Probation Officer attached to the Juvenile Justice Board, Ara at Bhojpur shall keep vigil over the conduct of the petitioner and shall keep on submitting his report to the Juvenile Justice Board.

(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'.

