

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.117 of 2022

Arising Out of PS. Case No.-82 Year-2021 Thana- BALIYA District- Begusarai

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Aman Kumar minor son of Brajesh Mishra through his father and natural Guardian Brajesh Mishra, aged about 42 years, S/o Brahmdev Mishra, Resident of Village- Masudanpur, P.S.- Ballia, District - Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

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

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

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 13-01-2023 Heard learned counsel appearing on behalf of the petitioner and learned APP appearing on behalf of the State through virtual court proceedings.

The present revision application is being preferred against judgement dated 30.09.2021 passed by learned Additional Sessions Judge-1-cum P.O., Children Court, Begusarai in Criminal Appeal No. 38 of 2021 by which the learned Court refused to enlarge the petitioner on bail in connection with J.J.B. Case No. 95 of 2019 arising out of Ballia P.S. Case No. 82 of 2021 registered for offence under Sections 376 AB of the Indian Penal Code and section 4/6 of the POCSO Act.

The petitioner/revisionist, aged about 16 years 02



months and 24 days on the alleged date of occurrence i.e. 25.03.2021, is named in F.I.R., and is in custody/observation home since 27.03.2021.

The allegation against this petitioner/revisionist is to rape upon minor informant/victim, aged about 10 years, while she was on her way to Gurukul situated in her village.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that petitioner was falsely implicated in present case due to dispute and differences arises out of local issues at village level. It is submitted that medical report is also not suggesting that rape was committed upon informant as no injury was noticed on and around private parts of the victim. It is also submitted that juvenile was also examined medically in terms of Section 53A of the Cr.P.C., where also nothing substantial surfaced in support of allegation. It is also pointed out that revisionist/petitioner is a man of clean antecedent and furthermore, no adverse report surfaced against petitioner/revisionist through S.I.R. (Social Investigation Report).

Learned counsel appearing on behalf of the petitioner/revisionist submitted that father of the juvenile petitioner is ready to stand as a surety and furnish an



undertaking that he will take care of the petitioner/revisionist and shall ensure his studies as well as that he would not fall in bad company and would take all possible care to connect him with the mainstream of the society.

Learned APP, Mr. Sanjay Kumar Singh, appearing for the State vehemently opposed the prayer for bail of the petitioner/revisionist and submitted that there is specific allegation against this revisionist/petitioner to commit rape upon minor informant/victim.

Having regard to the submission and materials showing that the petitioner has been adjudged juvenile aged about 16 years 02 months and 24 days approximately on the alleged date of occurrence, no active participation of the petitioner has been alleged, he has no criminal antecedent and the social investigation report of the petitioner is not showing any adverse material against him so as to dissuade this court for granting release of the petitioner on bail, as also that petitioner has remained in the Observation Home for more than one year and his father is ready to stand as a surety and furnish an undertaking that if released on bail he will take care of the study of the petitioner and shall ensure that he does not fall in bad company and, in case, the petitioner indulges in any unlawful



act, he will inform it to the jurisdictional police station as also following the spirit of section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and in view of the exceptions carved out by the Hon'ble Division Bench of this Court in the case of **Lalu Kumar and Ors. Vs. The State of Bihar reported in 2019 (4) PLJR 833** that classification of the offences under the bailable and non-bailable sections would not be relevant for the purpose of grant of bail to a juvenile and the prayer for bail of a juvenile may be rejected only under one of the three conditions 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 physiological danger; and

(iii) The release would defeat the ends of justice.”

Accordingly, this court sets-aside the impugned order and directs release of the petitioner/revisionist 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, Begusarai/concerned Court in connection with Ballia P.S. Case No. 82 of 2021.



One of the sureties should be the father of the petitioner/revisionist and he will also furnish an undertaking in terms stated here-in-above.

The Probation Officer shall keep on visiting the place of the petitioner and shall submit periodical report to the Juvenile Justice Board (J.J.B.), Begusarai, regarding conduct of the petitioner. If found anything adverse against this petitioner/revisionist, the same will also be reported to the Board for necessary action.

(Chandra Shekhar Jha, J)

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