

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.1034 of 2023**

Arising Out of PS. Case No.-42 Year-2022 Thana- BENIPATTI District- Madhubani

XXXX S/O SRI RANDHIR KUMAR YADAV R/v- Manpaur, P.O.- Manpaur,  
P.S.- Benipatti, District- Madhubani through his legal guardian father i.e. Sri  
Randhir Kumar Yadav, Aged about 39 years (Male), S/o Sri Ramashish Yadav,  
R/v- Manpaur, P.O.- Manpaur, P.S.- Benipatti, District- Madhubani

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

**Appearance :**

|                      |   |                                                                                     |
|----------------------|---|-------------------------------------------------------------------------------------|
| For the Appellant/s  | : | Mr. Ajay Kumar Thakur, Adv.<br>Ms. Vaishnavi Singh, Adv.<br>Mr. Ritwik Thakur, Adv. |
| For the Respondent/s | : | Mr. Ramchandra Singh, APP                                                           |
| For the Informant/s  | : | Mr. Sanjay Kumar Jha, Adv.                                                          |

**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH**  
**ORAL ORDER**

- 6      19-09-2023                      1. Heard learned counsel for the Appellant, learned  
counsel for the Informant and learned APP for the State.
2. The instant appeal has been preferred under  
Section 101(5) of Juvenile Justice (Care and Protection of  
Children) Act, against the order dated 17.01.2023 passed by the  
Court of learned 1<sup>st</sup> Additional Sessions Judge-cum-Special  
Judge, Madhubani in connection with E.N.No. 1007 of 2022  
arising out of Benipatti P.S. Case No. 42 of 2022 registered for  
the offence punishable under Section 376 of the Indian Penal  
Code, whereby the prayer for bail made by the appellant has  
been rejected.
3. In respect of prayer for bail made by the appellant



under Juvenile Justice (Care and Protection of Children) Act, it is submitted by learned counsel for the appellant that admittedly the so-called victim, who happens to be daughter of the informant, was twenty-one years old at the time of commission of the alleged occurrence while the appellant was juvenile at that time and he has been declared juvenile and the medical evidence concerned to the victim does not establish the sexual assault as alleged in the FIR and the Social Investigation Report does not go against the appellant. Further submissions are that the appellant is a student of 10+2 High School, Tisiyahi and has passed his Matriculation examination in the year 2020 from High School, Khirhar, Madhubani and he has got no criminal history and his father and grandfather have sworn their affidavits and they are ready to keep the appellant in their strict observation and the appellant's prayer for bail was rejected by the Trial Court mainly considering that there is some lack of discipline in the appellant, which cannot be a ground while rejecting the prayer for bail of the juvenile in view of Section 12 of the Juvenile Justice Act. Further submission is that the appellant has undergone more than one year in protective custody in Observation Home and the same is sufficient to keep him under the observation and his case is at initial stage.



4. Learned APP appearing for the State as well as learned counsel for the informant has vehemently opposed the prayer for bail of the appellant and submitted that during investigation, the victim supported the allegation of rape against the appellant before the Judicial Magistrate and there is a serious allegation against the appellant.

5. Considering the above submissions and mainly the Social Investigation Report which is not against the prayer of the appellant and he has spent sufficient protective custody period in Remand Home, in my opinion, the appellant deserves to the privilege of bail. Accordingly, let the appellant named-above be enlarged on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned 1<sup>st</sup> Additional Sessions Judge-cum-Special Judge, Madhubani in connection with E.N.No. 1007 of 2022 arising out of Benipatti P.S. Case No. 42 of 2022.

6. In the result, the instant appeal stands allowed and the order impugned is hereby set aside.

**(Shailendra Singh, J.)**

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