

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No. 157 of 2022

Arising Out of PS. Case No.-627 Year-2020 Thana- RUNISAIDPUR District- Sitamarhi

XXXX Son of Sri Gauri Singh @ Gauri Shankar Singh Resident of Village- Morsand, P.S.- Runni Saidpur, Dist. Sitamarhi through his uncle and guardian Uma Shankar singh, Male, aged about 64 years, son of Late Satyadeo Singh, resident of Village- Morsand, P.S.- Runni Saidpur, Dist.- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Vaidehi Raman Prasad Singh, Advocate
For the Respondent/s	:	Mr.Dilip Kumar No. 1, APP
For the O.P. No. 2	:	Mr. Ayush Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 25-01-2023 Heard learned counsel appearing on behalf of the petitioner/revisionist, learned APP appearing on behalf of the State as well as learned counsel appearing on behalf of the opposite party no. 2.

The present revision application is being preferred against order dated 23.10.2021 passed by the Court of learned 1st Additional Sessions Judge-I-cum-Special Judge (Children's Court), Sitamarhi, in Criminal Appeal No. 31 of 2021 and order dated 27.08.2021 passed by the Principal Magistrate, Juvenile Justice Board, Sitamarhi in J.J. Board Case No. 1293/2021 arising out of Runnisaidpur P.S. Case No. 627/2020 whereby and whereunder the learned Court has rejected the prayer for



bail of the petitioner/revisionist.

The petitioner/revisionist, aged about 15 years 06 months 04 days on the alleged date of occurrence, is named in F.I.R., and is in custody/observation home since 15.07.2021.

The allegation against petitioner/revisionist is to kidnap the minor daughter of informant alongwith other co-accused for the purpose of illicit intercourse.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that present implication is founded over failed love affair, when marriage could not negotiated out of certain compulsions. It is pointed out that even statement of victim as recorded under Section 164 of the Cr.P.C. is not suggesting for sexual assault where allegation is limited to solemnize marriage forcibly, while victim was in drunken condition. It is further submitted that as per medical examination report, the age of victim was about 18 years, where no sign of external injuries was noticed also negating allegation of sexual assault. It is further submitted that no adverse report has been found against this petitioner/revisionist, as per his Social Investigation Report (S.I.R.).

Learned counsel appearing on behalf of the petitioner/revisionist submitted that own uncle Uma Shankar



Singh of the juvenile petitioner is ready to stand as a surety and furnish an undertaking that she 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 and also grow him as a good and law abiding citizen.

Learned APP duly assisted by learned counsel Mr. Ayush Kumar appearing on behalf of the informant, while opposing the prayer of bail submitted that there is specific allegation of kidnapping available against this petitioner/revisionist.

Having regard to the submissions advanced as above, and materials showing that the petitioner has been adjudged juvenile aged about 15 years 06 months 04 days approximately on the alleged date of occurrence, 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 about one and half months and his uncle 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 psychological 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 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 (J.J.B.), Sitamarhi, in connection with J.J. Board Case No. 1293/2021 arising out of Runnisaidpur



P.S. Case No. 627 of 2020.

One of the sureties should be the own uncle of the petitioner 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.), Sitamarhi regarding conduct of the petitioner. If found anything adverse against this petitioner, the same will also be reported to the Board for necessary action.

(Chandra Shekhar Jha, J)

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