

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.182 of 2022

Arising Out of PS. Case No.-27 Year-2021 Thana- BARAULI District- Gopalganj

Ravi Kumar S/o Dashrath Sah Resident of Village- Mathurapur, P.S.- Barauli (Madhopur O.P.), District- Gopalganj under the guardianship of his mother namely Shobha Devi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Javed Aslam, Advocate
For the Respondent/s : Md. Ataur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 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 25.01.2022 passed by Sri Gunjan Pandey, learned 1st Additional Sessions Judge, Gopalganj in Criminal Appeal No. 39 of 2021 by which the learned Court refused to enlarge the petitioner on bail in connection with J.J.B. Case No. 25 of 2021 arising out of Barauli (Madhopur O.P.) P.S. Case No. 27 of 2021 registered for offence under Section 377 of the Indian Penal Code and Section 4 of POCSO Act.

The petitioner/revisionist, aged about 11 years 01 month and 11 days on the alleged date of occurrence i.e.



24.01.2021, is named in F.I.R., and is in custody/observation home since 25.01.2021.

The allegation against this petitioner is to commit unnatural sex/penetrative sexual assault upon minor son of informant, aged about six years.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that petitioner/revisionist was falsely implicated in present case out of neighbourhood dispute and differences. It is also submitted that victim, admittedly, unable to speak and as such false tutoring in present case cannot be ruled out. While traveling over the argument, it is submitted that revisionist/petitioner is a man of clean antecedent and moreover, his age was adjudged even below 12 years, giving him the benefit of section 83 of the Indian Penal Code. It is also submitted that no adverse report can be gathered from S.I.R. (Social Investigation Report) of the revisionist/petitioner.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that mother 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.

Learned APP, Md. Aatur Rahman, appearing for the State has opposed the prayer for bail of the petitioner/revisionist and submitted that there is specific allegation against this revisionist/petitioner to commit un-natural sex upon the minor son of the informant. Learned APP, however, failed to point out any adverse material from the social investigation report.

Having regard to the submission and materials showing that the petitioner has been adjudged juvenile aged about 11 years 01 month and 11 days approximately on the alleged date of occurrence, 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 about two years and his mother is ready to stand as a surety and furnish an undertaking that if released on bail she 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, she 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, Gopalganj/concerned Court in connection with Barauli (Madhopur O.P.) P.S. Case No. 27 of 2021.

One of the sureties should be the mother of the petitioner/revisionist and she 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.), Gopalganj, 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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