

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.267 of 2022

Arising Out of PS. Case No.-40 Year-2021 Thana- MAHILA P.S. District- Patna

Vishal Kumar s/o shankar prasad r/o tenant of ghanshyam prasad, badi patan
devi, p.s.- Alamganj, District- Patna.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Fakhruddin Ali Ahmad, Advocate
For the Respondent/s : Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 19-01-2023 Heard learned counsel appearing on behalf of the
petitioner and learned APP appearing on behalf of the State.

The present revision application is being preferred against judgement dated 24.03.2022 passed by learned Additional District Judge 1 cum Children's Court, Patna in Criminal Appeal No. 9 of 2022 by which the learned Court refused to enlarge the petitioner on bail in connection with J.J.B. Case No. 197 of 2021 of 2020 arising out of Mahila P.S. Case No. 40 of 2021 registered for offence under Sections 376/376 (AB) and 506 of the Indian Penal Code and Section 04/06 of the POCSO Act.

The petitioner/revisionist, aged about 15 years 02 months and 20 days on the alleged date of occurrence i.e. 15.03.2021, is named in F.I.R., and is in custody/observation



home since 11.04.2021.

The allegation against this petitioner is to commit rape/penetrative sexual assault upon the daughter of informant aged about 08 years, while she was alone at her home.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that petitioner have been falsely implicated in the present case due to neighborhood disputes and differences. It is also submitted by learned counsel appearing on behalf of revisionist/petitioner that present F.I.R. was lodged with a delay of one month without any just explanation and as such false implications cannot be ruled out in the present case. It is also submitted that medical report of the victim is also not suggesting the allegations on its face as raised through present F.I.R.

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 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 for the State while opposing the prayer



for bail fairly conceded that F.I.R. was lodged after delay of one month of occurrence. It is also submitted by learned APP that social investigation report (S.I.R) is not suggesting anything adverse against this petitioner/revisionist.

Having regard to the submission and materials showing that the petitioner has been adjudged juvenile aged about 15 years 02 months and 20 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/mother 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 Additional District Judge 1 cum Children's Court, Patna/concerned Court in connection with Mahila P.S. Case No. 40 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.), Patna, 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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