

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.314 of 2022

Arising Out of PS. Case No.-502 Year-2021 Thana- DARIYAPUR District- Saran

XYZ

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Udai Shankar Singh, Advocate
For the Respondent/s : Mr. Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 08-02-2023 Heard learned counsel appearing on behalf of the petitioner/revisionist and learned APP appearing on behalf of the State.

Though the petitioner has given full description in the application, it would be inappropriate to disclose his identity in view of the statutory provisions prescribed under Section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'the Act of 2015'). He is being referred to in the cause title as XYZ.

Registry while uploading the order on the website shall also ensure that the cause title is reflected in similar manner.

The present revision application is being preferred against impugned order dated 16.03.2022 passed by learned 1st Additional Sessions Judge-cum-Special Judge, (SC/ST and Children's Court), Saran at Chhapra in Criminal Appeal No. 01 of 2022 whereby and



whereunder dismissed the Criminal (Juvenile) appeal filed by the petitioner against the order dated 16.11.2021 passed by learned Juvenile Justice Board (for short 'J.J.B.'), Chapra in Juvenile No. 652 of 2021 arising out of Dariyapur P.S. Case No. 502 of 2021 which has been registered for offences under Sections 341, 323, 354, 354(D), 504, 506, 509, 120(B) and 34 of the Indian Penal Code (for short 'I.P.C.') and under Sections 67 and 67(a) of the Information Technology Act (for short 'I.T. Act'), whereby and whereunder the learned J.J. Board has rejected the bail application filed on behalf of the petitioner under Juvenile Justice (Care and Protection of Children) Act.

The petitioner/revisionist, aged about 14 years on the alleged date of occurrence, named in F.I.R., and is in custody/observation home since 07.10.2021.

The allegation against petitioner/revisionist is to prepare a footage assaulting and outraging modesty of women and his male friend alongwith other co-accused persons and when the police receive the said footage, the petitioner/revisionist was identified as one of the assailant and subsequent thereof, the F.I.R. was lodged.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that the name of petitioner surfaced on the basis of disclosure made by co-accused, namely, Rakesh Kumar. It is also submitted that said Rakesh kumar has already been granted bail by one of learned Co-ordinate Bench of this Court vide



order dated 06.01.2022 passed in Cr. Misc. No. 1416 of 2022. It is also submitted that petitioner is a man of clean antecedent and moreover, the genuineness of the video clip was not verified from any forensic lab. It is also submitted that mandatory certificate, as required under Section 65(B) of the Indian Evidence Act, was also not collected, while investigating the matter, particularly when entire allegation is based upon electronic evidence. It is also pointed out that nothing adverse can be gathered against this petitioner/revisionist from Social Investigation Report, which is the part of impugned order itself.

Learned APP appearing on behalf of the State while opposing the prayer of bail fairly conceded the fact that the name of the petitioner/revisionist surfaced on the basis of disclosure made by co-accused, namely, Rakesh Kumar.

In view of the facts and circumstance and by taking note of nature of allegation, where, petitioner/revisionist has been adjudged juvenile aged about 14 years on the alleged date of occurrence and the social investigation report of the petitioner/revisionist is also 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 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/revisionist and shall ensure that he does



not fall in bad company and, in case, the petitioner/revisionist 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, the impugned order dated 16.03.2022 passed in Criminal (Juvenile) Appeal No. 01 of 2022 by the Court of learned 1st Additional Sessions Judge-cum-Children Court, Saran at Chhapra is set-aside. Consequently, in J.J.B. Enquiry No. 652 of 2021 (arising out of Dariyapur P.S. Case No. 502 of 2021) by the learned Juvenile Justice Board (J.J.B.), Saran at Chhapra, is also set-aside.



In view of the above mentioned facts and circumstances, as petitioner assessing juvenile by the J.J.B., his age is about 14 years, he is directed to be released 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, Saran at Chhapra/concerned Court in connection with J.J.B. Case No. 652 of 2021 (arising out of Dariyapur P.S. Case No. 502 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.), Saran at Chhapra, regarding conduct of the petitioner/revisionist. 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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