

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.527 of 2023

Arising Out of PS. Case No.-105 Year-2022 Thana- BENIPATTI District- Madhubani

XXX S/o Dilip Mandal R/o Village- Dhanauja, Ps. Benipatti, Dist. Madhubani through his Mother Fulo Devi Aged About 39 Years (Female) Wife of Dilip Mandal, R/o Village- Dhanauja, PS.- Benipatti, Dist. Madhubani

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner/s : Mr. Ashok Kumar Jha, Advocate
For the Respondent/s : Mr. Abhay Kumar Roy, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 24-11-2023 Heard learned counsel for the petitioner and learned APP for the State.

2. Petitioner in this case is seeking setting aside of the order dated 20.06.2023 passed by learned 1st Additional Sessions Judge-cum-Special Judge, (Children's Court), Madhubani in Juvenile Appeal No. 22 of 2023 whereby and whereunder the order dated 05.04.2023 passed by learned Principal Magistrate, Juvenile Justice Board, Madhubani in connection with Benipatti P.S. Case No. 105 of 2022 (E. N. 1028 of 2023) registered for the offences under Sections 376, 506 and 34 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act has been affirmed.



3. As per the prosecution story, the informant who resides in Bangalore had come to his native village on 01.05.2022 and got information from his family members that this petitioner had taken his minor daughter aged about three years on the roof and there he raped her due to which she became unconscious and was found in an injured condition and was taken to the clinic of Dr. Mahesh Yadav for treatment. The informant's family was threatened not to lodge case.

4. It is submitted that on the alleged date of occurrence, this petitioner, who is cousin brother of the victim, was found aged about thirteen years only. In this regard, attention of this Court has been drawn towards the order dated 06.02.2023 (Annexure '3') by which the Juvenile Justice Board, Madhubani has determined the age of the petitioner as thirteen years one month twenty four days on the alleged date of occurrence.

5. Learned counsel submits that the petitioner is in the observation home since 07.09.2022 and he being less than sixteen years of age on the alleged date of occurrence, may at best be kept in the observation home for a period of three years. It is submitted that the Medical Board has examined the victim girl and it has been specifically recorded that "According to



present physical and pathological examination no medical evidence of Sexual assault found at the time of examination...”

It is thus submitted that it would be in the interest of the child in conflict with law to get united with his family so that he may get more psychological help and support to remain connected with the mainstream of the society.

6. Learned A.P.P. for the State has though opposed the prayer for bail of the petitioner but considering that the petitioner was hardly aged about thirteen years on the date of alleged occurrence and his parents are ready to furnish undertaking that if released on bail, they will take care of the petitioner and would not allow him to fall in bad habits, this Court sets aside the impugned order and directs release of the petitioner above named 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 Principal Magistrate, Juvenile Justice Board, Madhubani in connection with Benipatti P.S. Case No. 105 of 2022 (E. N. 1028 of 2023).

7. And further condition that one of the sureties shall be the father of the petitioner who will also furnish an undertaking that if released on bail, the petitioner shall not be allowed to indulge in any unlawful act and all care will be taken



that he does not fall in the company of anti-social elements and in case the petitioner indulges in any unlawful act, he will inform it to the concerned jurisdictional police station.

8. And it is further ordered that the Probation Officer attached to the Juvenile Justice Board, Madhubani shall keep a vigil over the petitioner and will be submitting his periodical reports to the Juvenile Justice Board, Madhubani as regards the conduct of the petitioner.

9. The application stands allowed.

(Rajeev Ranjan Prasad, J)

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