

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.634 of 2022

Arising Out of PS. Case No.-331 Year-2020 Thana- KHUSRUPUR District- Patna

X1

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Pratik Mishra, Advocate
For the Respondent/s : Mr. Shantanu Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 02-02-2023 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 X1.

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 order dated 30.07.2022 passed by learned Addl. District



and Sessions Judge 1st-Cum-Special Judge, Children's Court, Patna, in Cr. Appeal No. 65/2022 and order dated 17.10.2020 passed by the Juvenile Justice Board, Patna as well as order dated 05.05.2022 passed by Juvenile Justice Board, Patna, whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, aged about 17 years 05 months 21 days on the alleged date of occurrence, is named in F.I.R., and is in custody/observation home since 08.01.2021.

The allegation against revisionist/petitioner is to commit rape upon the informant, while she was in her home, when entire family members were busy to attend the funeral of her grandmother-in-law.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that informant/victim is a married lady and the implication is due to neighbourhood disputes and differences, where revisionist/petitioner implicated falsely. It is pointed out that vide order dated 24.02.2022 of learned Juvenile Justice Board, it has been observed that petitioner does not have enough ability to understand the consequences and nature of the offence and therefore trial was taken up by the J.J.B, itself. It is also submitted that the FIR was



lodged with a delay of four days. It is further submitted that informant/victim was not examined medically in support of allegation. It is also pointed out that petitioner is a man of clean antecedent, having no adverse report as per SIR, (Social Investigation Report).

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 proper 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 groom him as a good and law abiding citizen.

Learned APP, while opposing the prayer of bail submitted that there is specific allegation against this revisionist/petitioner.

Having regard to the submissions advanced as above, and materials showing that the petitioner has been adjudged juvenile aged about 17 years 05 months 21 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 more than one and six months 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 psychological danger; and

(iii) The release would defeat the ends of justice.”

Accordingly, the impugned order dated 30.07.2022 passed by learned Addl. District and Sessions Judge 1st-Cum-Special Judge, Children's Court, Patna, in Cr. Appeal No.



65/2022 and order dated 17.10.2020 passed by the Juvenile Justice Board, Patna is set aside. Consequently, the order dated 05.05.2022 passed by Juvenile Justice Board, Patna, is also set aside.

The petitioner 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, Patna.

One of the sureties should be the mother of the petitioner 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 Learned J.J. Board, Patna, 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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