

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.656 of 2022

Arising Out of PS. Case No.-519 Year-2019 Thana- SIKARPUR District- West Champaran

XXXX Resident of village- Saidpur, P.S.- Shikarpur, District- West Champaran. Through his mother being natural guardian namely Lalmani Devi, aged about 31 years, Female W/o Indal Manjhi @ Indal Majjhi , R/O Village- Saidpur, P.S.- Shikarpur, District- West Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate
For the Respondent/s : Mr. Mukeshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 06-01-2023 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 01.08.2022 passed by learned Additional District and Sessions Judge First-cum-Special Judge, SC/ST, West Champaran, Bettiah in Criminal Appeal No. 19 of 2022 and also for setting aside the order dated 08.03.2022 passed by the learned Juvenile Justice Board, West Champaran at Bettiah in J.J.B. Case No. 606 of 2021 (arising out of Shikarpur P.S. Case No. 519 of 2019, registered for offences under Sections 341, 323, 307, 376 and 34 of the Indian Penal Code (I.P.C.), whereby and whereunder prayers for bail made on



behalf of the petitioner, who happens to be declared Juvenile, were rejected.

The petitioner/revisionist, aged about 13 years 08 month and 2 days on the alleged date of occurrence i.e. 20.03.2021, is named in F.I.R., and is in custody/observation home since 01.02.2021.

The allegation against petitioner is to commit rape upon the daughter of the informant.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that the petitioner has been falsely implicated in the present case, as under conspiracy. It is submitted that it is highly improbable that a juvenile having 13 years 08 months and 2 days may commit rape upon a girl of about 18 years. It is submitted that daughter of the informant was in relations with someone else and as affairs of his daughter spread in society, to create a pressure for marriage, petitioner was implicated in present case, who is otherwise his relative. It is also pointed out that petitioner/revisionist is a man of clean antecedent.

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 for the State has opposed the prayer for bail of the petitioner/revisionist. Learned APP has, however, not pointed 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 13 years 08 months and 2 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 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 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 (J.J.B.), West Champaran, Bettiah in connection with Shikarpur P.S. Case No. 519 of 2019.

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 Juvenile Justice Board (J.J.B.), West Champaran, Bettiah, 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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