

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.714 of 2022

Arising Out of PS. Case No.-30 Year-2021 Thana- MAINATAND District- West Champaran

XXXX Son Of Madhav Patel @ Yadolal Patel @ Jadolal Patel Presently R/O Village- Belbaniya, P.S.- Mainatand, District- West Champaran Through His Father Being Legal Guardian Namely Madhav Patel @ Yadolal Patel @ Jadolal Patel, Aged About 38 Years, Male, S/O Heera Patel, R/O Village- Belwaniya, Bhaluwahiya, P.S.- Mainatand, 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.Jitendra Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 30-01-2023 Heard learned counsel appearing on behalf of the petitioner/revisionist and learned APP appearing on behalf of the State.

The present revision application is being preferred against order dated 25.08.2022 passed by the Court of learned Additional District and Sessions Judge-1st, West Champaran at Bettiah in Cr. Appeal No. 34/2022 and order dated 28.05.2022 passed by the Learned Juvenile Justice Board, West Champaran at Bettiah in J.J.B. Case No. 765/2022 (arising out of Mainatand P.S. Case No. 30/2021), whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.



The petitioner/revisionist, aged about 13 years 11 months 18 days on the alleged date of occurrence i.e. 07.03.2021, is named in F.I.R., and is in custody/observation home since 23.03.2022.

The allegation against revisionist/petitioner is to commit rape/penetrative sexual assault upon the minor daughter of the informant aged about 7 years.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that after investigation, no case of penetrative sexual assault was found and as such the charge sheet was submitted under Section 8/12 of POCSO Act. It is also submitted that out of neighbourhood dispute and differences revisionist/petitioner implicated falsely in present case. It is also submitted that Social Investigation Report (SIR) of petitioner is also not suggesting anything adverse

Learned counsel appearing on behalf of the petitioner/revisionist submitted that father 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 and also grow him as a good



and law abiding citizen.

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

Having regard to the submissions advanced as above, and materials showing that the petitioner has been adjudged juvenile aged about 13 years 11 months 18 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 about one year and his father 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 psychological 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 at Bettiah, in connection with J.J. Board Case No. 765/2021 arising out of Maintand P.S. Case No. 30 of 2021.

One of the sureties should be the father of the petitioner 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.), West Champaran at 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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