

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.766 of 2022

Arising Out of PS. Case No.-235 Year-2021 Thana- SONBERSA District- Sitamarhi

Shyam Kumar Son Of Umesh Mandal (Under The Guardianship Of The Appellant), Resident Of Village - Bishanpur Adhar, P.S.- Kanhauli, District - Sitamarhi.

... .. Petitioner/S

Versus

1. The State Of Bihar, Bihar.
2. Gayatri Devi Wife Of Sublal Ray Resident Of Village - Sangrampur, Tole - Belwa, P.S.- Sonbarsa, Distt. - Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Devendra Kumar, Adv.
For the Respondent/s	:	Mr. Md. Aatur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL ORDER

2 20-03-2023 Heard learned counsel for the petitioner and learned counsel for the State.

The present Cr. Revision has been filed against the order dated 14.02.2022 passed by the Court of Ist Additional Sessions Judge-cum-Special Judge (Children's Court, Sitamarhi), Civil Court, Sitamarhi, Bihar in Cr. Appeal No. 01 of 2022.

As per the prosecution case, one Gayatri Devi has instituted the Sonbarsa P.S. Case No. 235 of 2021 under Sections 363, 366(A)/34 of the I.P.C. and read with Section 8 of the POCSO Act, with the allegation that the daughter of the informant was standing on *varanda* and in the meantime one

white Tata Safari vehicle came from the south side and stopped near the *varanda*, inside the vehicle named accused persons were there, including the present petitioner. Those persons forcefully tied the mother of the victim and taken the victim into the vehicle. They went with a threat that if the family would search their daughter then their entire family would be killed by them. All of them had taken weapons in their hands. On the next day accused persons came again and stated that they had kidnapped the informant's daughter and threaten them.

Counsel for the petitioner submits that recovery of the alleged victim has taken place and in her statement under Section 164, the alleged victim has denied the story of her kidnapping and disclosed that she, herself went to her aunt's house. It has also been submitted by the counsel for the petitioner that the victim's family has ignored the medical check-up of the victim. It has been stated that due to intervention of the well-wisher, a petition for compromise has been filed on 28.02.2022. Counsel for the petitioner submits that the age of the petitioner was assessed as 14years, 3months, 2days. It has been stated that one another case was also filed against the petitioner bearing Kanhauli P.S. Case No. 84 of 2021 lodged under Sections 25(1-b)a, 26, 35 of the Arms Act. It has

also been submitted that father of the petitioner has filed a complaint case bearing complaint case no. 792 of 2021 against the informant and her family members. It has been stated that the petitioner has in remand since 23.08.2021. Counsel for the petitioner submits that father of the petitioner is ready to take the responsibility of his minor child. Counsel submits that petitioner is ready to fulfill conditions, whatsoever shall be imposed upon him. Counsel further submits that in the Social Investigation Report, the petitioner may come in association of known criminals and it would also expose him to moral, physical and psychological danger and also defeat the ends of justice.

Counsel submits that one of the accused persons who was not a juvenile and he is a major, has been granted bail in this case by the Co-ordinate Bench of this Court.

Upon going through the merit of the case and documents on record as well as the position of the law, it is crystal clear that the general principal relating to care and protection has to be followed and it is being discussed in Section 3, in which principal of presumption of innocence and principal of equality and non-discrimination are also there.

In this view of the matter, petitioner is directed to be

released on the undertaking of his father. Petitioner is directed to visit periodically, every month with the protection officer, who shall take conciliation of the petitioner.

With the aforesaid direction, the order dated 30.11.2021 passed by the learned Juvenile Justice Board, Sitamarhi in J.J. Board Case No. 1450 of 2021 in connection with Sonbarsa P.S. Case No. 235 of 2021 are hereby set-aside.

(Dr. Anshuman, J.)

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