

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.828 of 2022

Arising Out of PS. Case No.-19 Year-2022 Thana- MAHILA PS District- Darbhanga

XX

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Miss Jyoti Kumari D/o Sanjay Kumar R/o Village- Turki, P.S.- Baheri, District- Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Bauye Jee Jha (B.J. Jha), Advocate
For the Respondent/s : Mr.Choubey Jawahar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 04-02-2023 Heard learned counsel appearing on behalf of the petitioner/revisionist and learned APP appearing on behalf of the State.

Notice was issued to opposite party no. 2 duly served upon, but failed to appear before this Court.

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 XX.

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 30.09.2022 passed by learned Addl. Sessions Judge-1-Cum-P.O.-Children Court, Darbhanga, in Cr. Appeal No. 20 of 2022 and order dated 17.08.2022 passed by learned Juvenile Justice Court, Darbhanga vide JJB Inquiry case no. 580/2022 (arising out of Darbhanga Mahila P.S. Case No. 19 of 2022), whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, adjudged as a juvenile on the alleged date of occurrence i.e. 10.03.2022, where his age was assessed as 17 years 08 months, named in F.I.R., and is in custody/observation home since 05.05.2022.

The allegation against revisionist/petitioner is to commit rape upon the informant under threat of committing suicide.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that this is a case of failed love affair, and as for certain reasons, when marriage could not negotiated between the informant and petitioner, the present false implication was made. It is submitted that even medical report of the informant/victim is not suggesting anything to support the allegation of rape. It is further submitted that



petitioner is a man of clean antecedent and moreover, nothing adverse can be gathered from his Social Investigation Report (SIR), rather SIR of revisionist/petitioner suggests that the family atmosphere is good for education and present implication was made to pressurize to get marriage negotiated.

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 in future.

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

Having regard to the submissions advanced as above, nature of accusation and materials showing that the petitioner has been adjudged juvenile aged about 17 years 08 months 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 eight 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 30.09.2022 passed by learned Addl. Sessions Judge-1-Cum-P.O.-Children Court, Darbhanga, in Cr. Appeal No. 20 of 2022 is set aside.



Consequently, the order dated 17.08.2022 passed by learned Juvenile Justice Court, Darbhanga vide JJB Inquiry case no. 580/2022 (arising out of Darbhanga Mahila P.S. Case No. 19 of 2022) 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 Court, Darbhanga vide JJB Inquiry case no. 580/2022 (arising out of Darbhanga Mahila P.S. Case No. 19 of 2022)

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 Juvenile Justice Court, Darbhanga, 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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