

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.846 of 2022

Arising Out of PS. Case No.-41 Year-2021 Thana- MAHILA PS District- Buxar

XXX

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ajit Kumar, Advocate

For the Respondent/s : Mr. Satyendra Prasad, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 03-02-2023 Heard learned counsel appearing on behalf of the petitioner/revisionist and learned APP appearing on behalf of the State through Virtual Court Proceeding.

I.A. No. 01 of 2022

This Interlocutory application has been filed under Section 5 of the Limitation Act by the petitioner for condonation of delay of 24 days caused in filing the present application.

For the reason as mentioned in I.A., the delay of 24 days caused in filing the present application is condoned.



Interlocutory application No. 01 of 2022 stands allowed.

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 XXX.

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 15.07.2022 passed by learned A.D.J. 1st -cum-Special Judge, (SC/ST & Children Court), Buxar in Child Case No. 03/2022 arising out of Buxar (Mahila) P.S. Case No. 41/2021.

The petitioner/revisionist, adjudged as a juvenile on the date of occurrence i.e. 09.06.2021, where his age was assessed as 16 years 03 months 20 days, is named in F.I.R., and is in custody/observation home since 19.02.2022.

The allegation against revisionist/petitioner is to assault the informant after trespassing in her house alongwith



other co-accused persons and also help the main accused, namely, Sanjay Ram, while he was committing rape upon informant/victim.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that the face of FIR, is speaking about the property disputes between accused persons and the informant, which is appearing the main cause for present false implications. It is further submitted that thrust of allegations as regard to rape is specific against co-accused, namely, Sanjay Ram where the allegations against this revisionist/petitioner is limited to assault the informant alongwith other co-accused persons. It is also submitted that revisionist/petitioner is a man of clean antecedent and moreover, a Social Investigation Report (SIR) of petitioner is also not suggesting anything adverse against him.

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 fairly conceded that thrust of allegations as regard to rape is not available against this revisionist/petitioner.

Having regard to the submissions advanced as above, and materials showing that the petitioner has been adjudged juvenile aged about 16 years 03 months 20 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 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 15.07.2022 passed by learned A.D.J. 1st -cum-Special Judge, (SC/ST & Children Court), Buxar in Child Case No. 03/2022 arising out of Buxar (Mahila) P.S. Case No. 41/2021 is 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 A.D.J. 1st -cum-Special Judge, (SC/ST & Children Court), Buxar in Child Case No. 03/2022 arising out of Buxar (Mahila) P.S. Case No. 41/2021

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 Juve-



nile Justice Board (J.J.B.), Buxar, 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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