

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.871 of 2022**

Arising Out of PS. Case No.-267 Year-2021 Thana- BARAUNI District- Begusarai

Md. Arshad Son of Md. Ali Hussain, R/o Vill.- Malhipur, P.S.- Barauni
(Chakia O.P.), Distt.- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Yogesh Kumar, Adv.

For the Respondent/s : Mr. Brajendra Nath Pandey, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 20-03-2023

Heard learned counsel for the petitioner and
learned counsel for the State.

The present Cr. Revision Application has been filed
against the order dated 22.10.2022 passed by learned Additional
Sessions Judge-1-cum-P.O. Children Court, Begusarai in J.J.C.P.
Case No. 06 of 2021 and the order dated 04.12.2021 passed in
J.J.B. Case No. 178 of 2021 arising out of Barauni P.S. Case No.
267 of 2021 lodged under Sections 366A, 376/34 of the Indian
Penal Code read with Section 4 of POCSO Act.

Learned counsel for the petitioner submits that in
the F.I.R. 7 named persons who are entire family members of
the petitioner have been made accused. He further submits that
in the statement recorded under Section 164 of Cr.P.C. a non-

existing statement has been made, it has been submitted that after alleged kidnapping the accused petitioner went with the victim at Mumbai but after two line she has stated that they have brought the victim to Chennai. Allegation of 4 times rape are there in the statement recorded under Section 164 of Cr.P.C.

Learned counsel for the petitioner submits that the alleged date of occurrence is 27.06.2021, the date of recovery of victim is 09.07.2021 when she was found moving in the village itself namely Malhipur Chauk from where she was recovered. He further submits that medical report is annexed as Annexure-3, by which, the opinion has come that there is no evidence of recent sexual assault found on the victim, the report is dated 10.07.2021 itself. He also submits that other accused persons have also been granted bail by the Co-ordinate Bench of this Court vide order dated 07.04.2022 passed in Cr. Misc. No. 63659 of 2021 & Cr. Misc. No. 63710 of 2021. He further submits that four accused persons have been granted regular bail and two accused persons have been granted anticipatory bail. He submits that petitioner has been kept in observation home since 13.08.2021 upon surrender. Counsel further submits that by order dated 04.02.2023 Co-ordinate Bench of this Court has called the Social Investigation Report, in which, it has come that

the living condition of petitioner and his family is poor and they are selling fruits and eggs at Malhipur Chauk. Upon demand of criminal history of petitioner, it has not been provided by D.S.P. It has been stated that the petitioner who is in conflict with law need an institutional supervision.

Upon query from the State, that whether a developed institutional supervision home is available at Begusarai, he submits that developed institutional supervision home is not there yet but observation home is there.

Learned counsel submits that under Section 3 of the J.J. Act, the principle of presumption of innocence and the principle of equality and non-discrimination have to apply which are fundamental principles so far as the juvenile is concerned.

Following these principles, I am of the view that petitioner should be released from observation home on the undertaking given by his father and mother that they shall take care and he shall not involve in such type of activities in future.

Condition is hereby also imposed that the petitioner alongwith his father shall visit periodically in the first week of every month before the Probationer Officer.

With this observation, the present Cr. Revision

Application stands allowed and the order dated 22.10.2022 passed by learned Additional Sessions Judge-1-cum-P.O. Children Court, Begusarai in J.J.C.P. Case No. 06 of 2021 and the order dated 04.12.2021 passed in J.J.B. Case No. 178 of 2021 arising out of Barauni P.S. Case No. 267 of 2021 are hereby set-aside.

(Dr. Anshuman, J.)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	