

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No. 893 of 2022

Arising Out of PS. Case No.-281 Year-2021 Thana- KRITYANAND NAGAR District-
Purnia

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XXX

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajit Kumar Singh, Advocate
For the Respondent/s : Mr. Umesh Lal Verma, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 04-02-2023 Heard learned counsel appearing on behalf of the

petitioner/revisionist and learned APP appearing on behalf of the

State.

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 10.11.2022 passed in Cr. Appeal No. 42 of
2022 in connection with K. Nagar, P.S. Case No. 281 of 2021 by



the learned 1st Additional Sessions Judge-cum-Special Judge, Purnea and order dated 14.09.2022 passed by the Court learned Juvenile Justice Board, Purnea, whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, adjudged as juvenile on the date of occurrence, where his age was assessed as 16 years, 02 months and 22 days, is named in F.I.R., and is in custody/observation home since 26.11.2021.

The allegation against petitioner/revisionist is to commit rape upon the sister-in-law of informant on false pretext of marriage.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that from the bare perusal of the F.I.R., it appears that implication was made only when petitioner found in compromising position with victim/sister-in-law of the informant. It is further submitted that love affairs is admitted and as marriage could not negotiate for certain reasons, the present F.I.R. was lodged. It is also submitted that the medical report of victim also not suggesting anything in support of allegation, as raised for committing rape. While concluding the argument, it has been submitted that petitioner is a man of clean antecedent and moreover, S.I.R. (social investigation report), which is the part of



impugned order itself, is not suggesting that petitioner/revisionist cannot be brought into the mainstream of the society as a good and law abiding citizen in the future.

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 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 submitted that the allegation of rape is specific against this petitioner.

Having regard to the submissions advanced as above, and materials showing that the petitioner has been adjudged juvenile aged about 16 years 02 months and 22 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 more than 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, the impugned order dated 10.11.2022 passed in Cr. Appeal No. 42 of 2022 in connection with K. Nagar, P.S. Case No. 281 of 2021 by the learned 1st, Additional Sessions Judge-cum-Special Judge, Purnea is set aside. Consequently, order dated 14.09.2022 of the learned Juvenile Justice Board, Purnea, is also set aside.



In view of the above facts and circumstances, as petitioner assessing juvenile by the J.J.B., his age is about 16 years 02 months and 22 days, he 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 Board, Purnea.

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.), Purnea, 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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