

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.473 of 2023

Arising Out of PS. Case No.-534 Year-2020 Thana- BARACHATTI District- Gaya

‘X’ son of Vasudeo Yadav @ Nank Yadav, Resident of Village- Jhanakpur PS- Mohanpur Dist- Gaya under the guardianship of his father, namely, Vasudeo Yadav @ Nank Yadav, Resident of Village- Jhanakpur PS- Mohanpur Dist- Gaya.

... .. Petitioner

Versus

1. The State of Bihar
2. ‘Y’, D/o- Vijay Paswan, Resident of Village- Jhanakpur, PS- Mohanpur Dist- Gaya.

... .. Opposite Parties

Appearance :

For the Petitioner/s : Mr. Gajendra Kumar Singh, Advocate
For the Respondent/s : Mr. Sadanand Paswan, Spl.PP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 21-06-2024 Heard learned counsel for the petitioner and Mr. Sadanand Paswan, learned Special Public Prosecutor for the State.

2. The petitioner in this case is seeking setting aside of the judgment dated 22.01.2022 passed by learned Special Judge (Children Court), Gaya in Criminal Appeal (Juvenile) No. 03 of 2022 arising out of Barachatti P.S. Case No. 534 of 2020 registered under Section 376D, 506/34 of the Indian Penal Code, Section 6 of the Protection of Children from Sexual Offences Act and Section 3(i)(r)(w), 3(2)(v) of the SC/ST Act whereby and whereunder the order dated 17.12.2021 rejecting the bail of the petitioner passed by learned Juvenile Justice



Board, Gaya in Barachatti P.S. Case No. 534 of 2020 (POCSO 97 of 2020, Misc. No. 254 of 2021) has been affirmed. The petitioner has no criminal antecedent.

3. As per the prosecution story, on 26.08.2020 when the informant was returning home after attending natural call at 07:00 pm, three persons of her village, namely, (1) Manish Kumar, (2) Pravin Kumar and (3) Beni Kumar (this petitioner) caught hold of her and when she protested, they threatened her with gun and took her to a secluded place, committed rape upon her one after other and threatened her not to disclose the occurrence to any of her family members otherwise they would upload her objectionable photographs/videos on Facebook and Whatsapp. It is alleged that after two days of the occurrence, the accused persons blackmailed her by uploading photographs/videos on Facebook and Whatsapp and threatened her to kill her father. When she found herself uncomfortable, she narrated the story to her father.

4. Earlier, this Court had issued notice to the informant/victim, however, for the reasons stated in the order dated 17.05.2024, it is not possible to serve notice upon victim. The fact remains that her grandfather refuses to receive the notice.



5. Learned counsel for the petitioner has drawn the attention of this Court towards the earlier order dated 04.08.2022 passed in Cr. Revision No. 236 of 2022 wherein after considering the entire facts and circumstances of the case and on finding that the victim is yet to be examined, this Court refused to grant bail to the petitioner but directed the learned trial court to make all endeavours to conclude the trial as early as possible preferably within a period of six months. This Court further observed that if the trial is not concluded within a period of nine months, the petitioner will be at liberty to renew his prayer for bail.

6. Learned counsel submits that as per the process server report available on the record which has been taken note of by this Court in its order dated 17.05.2024, the victim girl has already been married and she is living in her *sasural*. It is submitted that from the report received from the learned trial court, it would further appear that no progress at all has been made in course of trial and as per the last report, out of nine chargesheeted witnesses, not a single witness has turned up. It is his submission that till date, no witness has been examined.

7. Learned counsel submits that the petitioner who was a juvenile has already remained in observation home since



04.12.2021 and at this stage, the trial is not likely to be concluded in near future for no fault on his part, therefore, he deserves privilege of bail.

8. Mr. Sadanand Paswan, learned Spl.PP for the State has though opposed the prayer for bail of the petitioner but does not dispute that the petitioner is in observation home since 04.12.2021 and till date, the trial has not proceeded despite directions and observations of this Court.

9. Having regard to the aforementioned submissions and the circumstances wherein this Court finds that the trial of the case has not proceeded, no witness has turned up in course of trial and the petitioner is in observation home since 04.12.2021, he has otherwise no criminal antecedent, in these circumstances, this Court sets aside the impugned order and directs release of the petitioner above named 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 Special Judge (Children Court), Gaya in connection with Barachatti P.S. Case No. 534 of 2020.

10. And further condition that one of the sureties shall be the father of the petitioner who will also furnish an undertaking that if released on bail, the petitioner shall not be



allowed to come in contact with the informant and her family members, he would not indulge in any unlawful act, he will be connected with the studies and mainstream of the society. All care will be taken that he does not fall in the company of anti-social elements. In case the petitioner indulges in any unlawful act, he will inform it to the concern jurisdictional police station.

11. And it is further ordered that the Probation Officer attached to the Juvenile Justice Board, Gaya shall keep a vigil over the petitioner and will be submitting his periodical reports to the Juvenile Justice Board, Gaya as regards the conduct of the petitioner.

12. This application stands allowed.

(Rajeev Ranjan Prasad, J)

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