

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 580 of 2024

Arising Out of PS. Case No.-43 Year-2023 Thana- MAHILA P.S. District- Araria

Shams Tabrez S/o Naim Uddin R/o vill - Chilhaniya, ward no. 09, P.S. - Mahalgaon, Distt. - Araria

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ziya Praveen D/o Amaanuddin R/o Chilhaniya, ward no. 9, P.s. - Mahalgaon, Distt - Araria

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr N K Agrawal, Sr Advocate with M/s Diksha Kri, Kr Rajdeep, Arvind Kr, Advocates
For the Respondent/s	:	Mr.Tapeshwar Sharma

CORAM: HONOURABLE MR JUSTICE ARVIND SINGH CHANDEL

ORAL ORDER

5 04-09-2024 Heard.

2 This revision has been preferred by the petitioner (juvenile) being aggrieved with the order dated 03.07.2024 passed by the Children Court -cum- learned Additional Sessions Judge I, Araria in Criminal Appeal No 6 of 2024 whereby the prayer for bail of the petitioner has been rejected by the appellate Court and the appellate Court also affirmed the order of the JJB, Araria dated 05.04.2024 in connection with Mahila PS Case No 43 of 2023 registered for the offence punishable under Sections 341, 323, 363, 366A, 376, 504, 506, 379/34 of the IPC and Section 4 of the POCSO Act.

3 The prosecution case is that on 25.11.2023, the



victim of the case, i e, a minor girl aged about 15 years, made a written complaint before the Mahila PS Araria alleging therein that on 16.11.2023, about 8 pm, the present petitioner forcibly covered her head and taken her to an unknown place where the present petitioner committed forceful sexual intercourse with her. It was further alleged that the present petitioner along with co-accused kept her for some days at an unknown place and on 17.11.2023, they left her near her house and fled away. The matter was informed by her to her parents and when the parents of the victim girl went to the house of the parents of the petitioner then the present petitioner and his family members assaulted the family members of the victim girl. On the basis of the said report lodged by the complainant, offence under Sections 341, 323, 363, 366A, 376, 504, 506, 379/34 of the IPC and Section 4 of the POCSO Act has been registered. During the course of investigation, the petitioner has been taken in custody on 30.11.2023 and since then he is in the Observation Home.

4 The learned counsel for the petitioner would submit that the petitioner is innocent and has falsely been implicated in this case due to some previous enmity with both the families. He further submits that the alleged incident has occurred on



16.11.2023 but the FIR has been lodged after 9 – 10 days of the incident, i e, on 25.11.2023 and the delay in lodging the FIR has not been explained by the victim. He also submits that the medical report of the victim girl has not supported the case of the prosecution. Lastly, he submits that the petitioner, being juvenile, is in the Observation Home since 30.11.2023. Social Investigation Report also does not suggest anything against him.

5 Learned counsel for the State opposes the prayer for bail.

6 Considering the submission of the counsel and further considering the fact that the petitioner is in custody since 30.11.2023, the petitioner is granted the privilege of bail.

7 Accordingly, this revision petition is allowed.

8 Let the petitioner above named be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the Children Court -cum- learned Additional Sessions Judge I, Araria in Mahila PS Case No 43 of 2023 subject to the following conditions:

(i) That one of the bailors should be the father of the petitioner, and

(ii) That the father of the petitioner shall file an affidavit before the concerned Court below, giving specific undertaking that



*after release of the petitioner on bail, he will
take proper care of the petitioner and will not
allow him to fall into bad company.*

(Arvind Singh Chandel, J)

M.E.H./-

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