

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.775 of 2022

Arising Out of PS. Case No.-266 Year-2020 Thana- MANIGACHI District- Darbhanga

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XXX S/O RAJA RAM THAKUR R/v- Narayanpur, P.S.- Manigachhi (Nehra O.P.), District- Darbhanga. Under guardianship of Raja Ram Thakur, S/o Kishori Thakur, R/v- Narayanpur, P.S.- Manigachhi (Nehra O.P.), District- Darbhanga.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Petitioner/s : Mr. Baidya Nath Prasad, Advocate
For the Respondent/s : Mr. Jitendra Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 23-01-2024 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. Petitioner in this case is a juvenile who is seeking setting aside of the order dated 20.09.2022 passed by learned Additional Sessions Judge-I-cum-Children Court, Darbhanga in P.C. Case No. 07 of 2022 whereby and whereunder the appeal preferred against the order dated 01.08.2022 passed by the learned Juvenile Justice Board, Darbhanga in Enquiry Case No. 568 of 2022 arising out of Manigachhi (Nehra O.P.) P.S. Case No. 266 of 2020 registered for the offences under Sections 323, 324, 341, 376 (2)(m) and 34 of the Indian Penal Code has been affirmed.

3. As per the prosecution story, on 24.10.2020 at 7 pm while the informant's mother and sister had gone to perform puja

and she was alone and preparing food with the help of emergency light, three accused persons including this petitioner came and hit the informant on her head due to which she became unconscious and when she regained consciousness, she was brutally assaulted and all the three persons forcefully raped her. It is alleged that when one motorcycle stopped at the place of occurrence, all the accused persons fled away threatening to kill the informant and her sister.

4. Learned counsel for the petitioner submits that it is out and out a false implication of the petitioner on the basis of a concocted story. In course of investigation, it has been gathered that the petitioner and the victim girl were studying in the same coaching institute, they had a love affair and earlier the victim girl had gone to stay with the petitioner in the house of a relative of the petitioner at Mumbai. In paragraph '24' of the case diary it has come that they had lived together earlier from 13th March, 2020 to 23rd March, 2020. A *Panchayati* had also been held in this regard and as per direction of the *Panchayati*, the petitioner and the victim were asked to live apart and not to remain in contact with each other.

5. Learned counsel further submits that in course of determination of age of the petitioner in the Juvenile Justice

Board, it has transpired that the *Panchayat* had asked the family of the petitioner to provide a sum of Rs. 4 lakhs to the victim's family and the victim family had received Rs. 50,000/-. This was relating to the earlier affairs. It is submitted that the falsity of the present occurrence may also be found from a bare perusal of the medical examination report. According to the informant, the alleged occurrence took place on 24.10.2020 whereas the present FIR has been lodged on 29.10.2020 and the victim was sent for medical examination on 30.10.2020. This is despite the fact that the victim herself claims that after the alleged occurrence she had come back to her home on her own on the same night at 9 pm. The medical examination report suggests that the victim had no injury marks over vulva or vagina.

6. Learned counsel submits that the medical examination report does not corroborate the manner of alleged occurrence. Moreover, the victim is admittedly aged about nineteen years on the alleged date of occurrence whereas the petitioner is a juvenile aged about seventeen years.

7. Learned counsel for the petitioner submits that the fact that the alleged occurrence was not reported to the police station for about five days and then the victim was not required to go to any hospital or even for preliminary treatment to any

Doctor for about six days would further demonstrate that the whole prosecution story is concocted.

8. Learned A.P.P. for the State has opposed the prayer for setting aside of the impugned order and release of the petitioner on bail. It is, however, pointed out from the observations recorded in the social investigation report and the social background report of the petitioner that the petitioner is having a positive attitude, most of the people informed that there was a love affair between the petitioner and the victim girl. They have also supported the story of there being a *Panchayati* in this regard. They have stated that the victim girl had come to the house of the petitioner and remained there for the whole night and thereafter the people had assembled and *Panchayati* had taken place. The victim girl has already been married.

9. Having regard to the facts and circumstances of the case, this Court is of the considered opinion keeping in mind the judgment of the Hon'ble Division Bench of this Court in the case of **Lalu Kumar and Ors. versus The State of Bihar** reported in **2019 (4) PLJR 833** that it is one of those cases in which the materials available on the record would indicate that seriousness of the allegations alone cannot be made a ground to reject the prayer for bail of the petitioner. The petitioner is a

juvenile, he is a student and in the kind of given background of a love affair, 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 A.D.J.-I-cum-Children Court, Darbhanga in connection with Manigachhi (Nehra O.P.) P.S. Case No. 266 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, 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, Darbhanga shall keep a vigil over the petitioner and will be submitting his periodical reports to the Juvenile Justice Board, Darbhanga as regards the conduct of the petitioner.

(Rajeev Ranjan Prasad, J)

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