

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.735 of 2023

Arising Out of PS. Case No.-69 Year-2019 Thana- MEDNI CHAUKI District- Lakhisarai

Manish Kumar @ Mainma S/O Madan Mahto Village- Rasulpur, Ps. Mednichowki, Dist. Lakhisarai, Under Guardianship of Sangit Kumar S/O Madan Mahto, R/O Village- Rasulpur, Ps. Mednichowki, Dist. Lakhisarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr.Adv.
Mr. Bhim Sen Prasad, Advocate

For the Respondent/s : Mr. Lalan Kumar, Addl. Public Prosecutor

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4. 16-02-2024 Heard Mr. Y.C. Verma, learned senior counsel assisted by Mr. Bhim Sen Prasad, learned counsel for the petitioner and learned A.P.P. for the State.

2. The present criminal revision application has been filed for grant of regular bail to the petitioner, against the order dated 05.10.2023, passed by learned Additional Sessions Judge 1st cum Special Judge, SC/ST, Lakhisarai (for short “Addl. Sessions Judge”), in MedniChowki P.S. Case No. 69 of 2019, registered for the offence punishable under Section 376 of the Indian Penal Code and Section 3 / 4 of the POCSO Act.

3. As per the prosecution case, on 14.08.2019 at about 3:00 PM, the minor daughter of informant was playing outside of her house, in the meantime, this petitioner came and



took her to his house and thereafter, committed sexual intercourse with her. It is further alleged that when the minor daughter came to her house, then informant saw blood was oozing out from her private parts and her minor daughter narrated the whole story.

4. By way of filing supplementary affidavit, learned senior counsel for the petitioner submits that bail application of petitioner was rejected by this Court, vide order dated 22.03.2021 passed in Cr.Misc. No. 2883 of 2021 (Annexure P/3) and thereafter, again on 20.04.2022, vide Cr.Misc. No. 3847 of 2022 (Annexure P/4), in view of progress of trial, the bail application of petitioner was rejected.

5. Learned senior counsel for the petitioner submits that after twice rejection of regular bail application of petitioner, the petitioner moved his application before the Juvenile Justice Board for declaring him 'juvenile' and on 28.07.2022, it was found that the age of the petitioner on the date of the occurrence was 17 years, 8 months and 17 days and thus, the petitioner was declared juvenile. Learned senior counsel for the petitioner further submits that the bail application of the petitioner has been rejected by the learned Addl. Sessions Judge taking into consideration the nature and



gravity of the offence, which is against the statutory mandate of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short “Juvenile Justice Act”) and there is no material on record to suggest that any of the grounds enumerated in Section 12 of the Juvenile Justice Act exists in this case and without calling for social investigation report or any other report, the bail application of petitioner has been rejected. The petitioner is languishing in jail since 26.08.2019.

6. At the time of considering the bail matter of a juvenile, the merit of the case or nature and gravity of allegation have no relevancy and are not ground to deny bail to a juvenile, rather the learned Court below is required to look into the aspects, which are enumerated in Section 12 of the J.J.Act and Social Investigation Report.

7. Considering the aforesaid facts and circumstances, the order dated 05.10.2023, passed by learned Additional Sessions Judge 1st cum Special Judge, SC/ST, Lakhisarai (for short “Addl. Sessions Judge”), in MedniChowki P.S. Case No. 69 of 2019 is, hereby, set aside and this criminal revision petition is allowed.

8. Accordingly, the above-named petitioner is directed to be released on bail on furnishing bail bond of **Rs.10,000/-**



(ten thousand) with two sureties of the like amount each to the satisfaction learned Juvenile Justice Board, Lakhisarai in connection with MedniChowki P.S. Case No. 69 of 2019, subject to condition that *one of the bailor would be father of the petitioner / close relative of petitioner, who would file an affidavit giving an undertaking to the effect that he / she will take care of good behaviour and child’s well-being and will not allow him to go in the company of bad elements.*

(Prabhat Kumar Singh, J.)

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