

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.778 of 2023

Arising Out of PS. Case No.-686 Year-2021 Thana- SHERGHATI District- Gaya

Arif Khan @ Rehan Khan Son Of Sheru Khan Resident Of Village - Malhari,
Police Station - Imamganj, District - Gaya, At Present Resident Of Village -
Hemzapur, P.S. - Amas, District - Gaya (under The Guardianship Of His
Father Namely Sheru Khan)

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL REVISION No. 806 of 2023

Arising Out of PS. Case No.-1 Year-2023 Thana- MAHILA PS District- Gaya

Deepak Kumar S/O Shri Mochi @ Shri Das R/O Village- Badahpur, P.S-
Muffasil In The Distt. Of Gaya. Under The Guardianship Of Father Namely
Shri Mochi @ Shri Das Gener- Male, Aged Abut 53 Yrs, Son Of Jagroop
Mochi, R/O Village- Badahpur, P.S- Muffasil In The Distt.- Gaya.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Respondent/s

with

CRIMINAL REVISION No. 827 of 2023

Arising Out of PS. Case No.-21 Year-2023 Thana- MAHILA PS District- Gaya



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Amit Kumar S/O Mithilesh Pandit Village- Devda, Ps. Tankuppa, Dist. Gaya.,
Under Guardianship Of Ganauri Pandit, (Grand Father) S/O Late Karu
Pandit, R/O Village- Devda, Ps. Tankuppa, Dist. Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

(In CRIMINAL REVISION No. 778 of 2023)

For the Petitioner/s : Ms. Prakritika Sharma, Advocate
Mr. Abid Khurshid, Advocate
Mr. Saobiya Mustaque, Advocate
Mr. Ram Pravesh Nath Tiwari, Advocate

For the Respondent/s : Mr. Brajendra Nath Pandey, APP

(In CRIMINAL REVISION No. 806 of 2023)

For the Petitioner/s : Mr. Sunil Kumar, Advocate
For the Respondent/s : Mr. Md. Shakir Ahmad, APP

(In CRIMINAL REVISION No. 827 of 2023)

For the Petitioner/s : Mr. Brij Mohan Das, Advocate
For the Respondent/s : Ms. Sharda Kumari, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL ORDER

- 3 17-02-2024 1. In the above writ petitions, the question of fact and law are common, therefore, this Court proposes to dispose of all the three writ petitions by a common judgment as follows.
2. In Criminal Revision No. 778 of 2023, the petitioner is a Child in Conflict with Law (hereinafter referred to



as “CICL” for brevity). In connection with Sherghati P.S Case No. 686 of 2021, dated 23rd of October, 2021, the CICL has been implicated in a case under Sections 302, 120B and 34 of the IPC and 27 of the Arms Act.

3. Since the petitioner was a juvenile, he was placed before the Juvenile Justice Board (herein after referred to as “JJB”) and an application was filed praying for his bail. The JJB rejected the said application. The CICL preferred an appeal, which was registered before the Children Court, Gaya as Juvenile Appeal No. 29 of 2023. The Appellate Court also rejected the prayer for bail of the CICL.

4. Hence, the instant Revision.

5. In Criminal Revision No. 806 of 2023, the CICL/petitioner was booked in connection with Mahila P.S Case No. 1 of 2023, under Sections 323, 354(C), 354(D), 376, 504, 506 and 34 of the IPC and Section 4/6 of POCSO Act, read with Sections 67 and 67A of the I.T. Act. The petitioner made an application for bail before the JJB by filing Misc. Case No. 78 of 2023. The said Misc. Case was rejected. Subsequently, the petitioner preferred an appeal before the learned Special Judge (Children Court), Gaya, which was registered as Juvenile Appeal No. 25 of 2023. The said appeal was also dismissed. The



petitioner has challenged the order of the Appellate Court by filing the instant Revision.

6. In Criminal Revision No. 827 of 2023, the petitioner was arrested in connection with Mahila (Gaya) P.S. Case No. 21 of 2023 for the offence punishable under Section 376 (D) of the IPC. The petitioner filed an application for bail which was registered before the JJB, Gaya as Misc Case No. 143 of 2023. The said application was rejected. The CICL preferred Juvenile Appeal No. 44 of 2023 which was also dismissed on contest by the learned Special Judge (Children Court), Gaya vide order dated 16th of October, 2023. The said order is impugned in the instant Revision.

7. In all three Revisions, the learned Counsels for the petitioners made almost similar submissions. The arguments advanced by the learned counsels for the petitioners are recorded below.

8. It is submitted by the learned counsels for the petitioners that the JJB is duty bound under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 to be guided by the fundamental principles enumerated in Section 3 of the Act of 2015, especially the principles of “best interest”, “repatriation” and “restoration” of child. The fundamental



principles in Section 3(xii) provides that a child shall be placed in institutional care as a step of last resort after making a reasonable inquiry. The gravity and nature of the offence are immaterial for consideration of bail under the Act of 2015. As per Section 12 of the Act of 2015, an application for bail is not decided by reference to classification of offences, as bailable or non-bailable under the Cr.P.C.

9. All persons alleged to be in conflict with law and apparently a child when apprehended must be released except in the following three circumstances when there is reasonable ground for believing that:-

(i) The release is likely to bring that person into association with known criminal;

(ii) The release is likely to expose the said person to moral, physical or psychological danger;

(iii) The release would defeat the ends of justice.

10. The Juvenile Justice Board is vested with the power to grant bail to any person who has not completed the age of 18 years, irrespective of the nature of offence being bailable or non-bailable or specified in any three categories of the Act as “pity offences”, “serious offences” and “heinous offences”. Thus, seriousness of the offence, alleged, cannot be made a



ground for rejecting bail in case of a Child in Conflict with Law.

11. In the instant case, the CICLs are accused of committing offences under Sections 302 of the IPC and 376 of the Indian Penal Code read with Section 4/6 of the POCSO Act.

12. It is true that the offences are heinous and very serious in nature but such serious offences or heinous offences for which the petitioners were made accused are not the considerations for rejection of bail.

13. In support of their contentions, the learned counsels refers to the decision of the Division Bench of this Court in *Lalu Kumar @ Lal Babu @ Lallu & Anr. Vs. The State of Bihar* (in all), reported in 2019 (4) PLJR833. They also refer to another decision of a Co-ordinate Bench of this Court, in the case of x – the petitioner Vs. The State of Bihar.

14. The learned APP for the State of Bihar has raised objection against the submissions made by learned counsels appearing on behalf of the petitioners.

15. In Cr. Revision No. 778 of 2023, the CICL was hired as a contract killer to eliminate the deceased and who accordingly executed the plan. It is found from the case-diary that the CICL is a member of a gang of miscreants and he had acted as a “liner” in the crime.



16. In Cr. Revision No. 806 of 2023, the CICL was aged about 15 years at the time of commission of offence. It is alleged that he committed rape of the daughter of the informant. The incident was videographed. Thereafter, with the threat of circulating the videography in social media, he satisfied his lust on some other occasions and then he took the victim away.

17. In Cr. Revision No. 827 of 2023, the CICL committed rape of the victim girl.

18. On perusal of the judgement, passed in appeal by the Children's Court, it appears that the Court of Appeal duly considered the guidelines of Lalu Kumar (supra) in the impugned order.

19. Under such circumstances, I do not find any illegality or material irregularity in the impugned orders.

20. Accordingly, all the three revisions are dismissed.

(Bibek Chaudhuri, J)

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