

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.81 of 2025

Arising Out of PS. Case No.-154 Year-2024 Thana- NAANPUR District- Sitamarhi

S Son of Late Bhogendra Mishra Resident of Village - Bahera Jahidpur,
P.S. - Nanpur, District - Sitamarhi

... .. Petitioner

Versus

1. The State of Bihar
2. Pidita Khatoon Daughter of Md. Lal Babu village- Bahera Jahidpur,
Ward no. 1, Ps- nanpur, Dist- Sitamarhi

... .. Respondents

Appearance :

For the Petitioner/s	:	Mr.Navendu Kumar, Advocate
For the Respondent/s	:	Dr. Indihar Kumari, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL JUDGMENT

Date : 07-03-2025

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

2. The present application is being preferred against the order dated 27.11.2024 passed by learned 1st Additional Sessions Judge-cum-Special Judge (Children's Court), Sitamarhi in connection with Nanpur P.S. Case No. 154 of 2024 for the offences punishable under Sections 376(A)(B) of the I.P.C. and section 6 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as the "POCSO Act") by which the learned Court has refused to enlarge the petitioner on bail.

3. The Child in conflict with law (for short 'CICL')/petitioner, aged about 16 years 01 month and 19 days on



the alleged date of occurrence i.e. 14.05.2024, is named in F.I.R. and is in observation home since 03.04.2024.

4. The allegation against the CICL/petitioner is to commit rape upon the informant while she had gone to bring wood in an orchard at some distance from her house.

5. Learned counsel appearing on behalf of the CICL/petitioner submitted that petitioner/CICL was not named in the FIR, whereas on the basis of determination of age by Juvenile Justice Board, Sitamarhi the age of CICL/petitioner was found 16 years 01 month and 19 days on the date of occurrence. It is submitted that the CICL/petitioner has falsely been implicated in this case because the mother of the CICL/petitioner denied to give a piece of land to the father of the informant.

6. Learned counsel further pointed out that under section 161 Cr.P.C. the victim identified the photograph of CICL/petitioner, but in her statement recorded under section 164 Cr.P.C. she could not say anything on this point. Similarly, under Section 164 Cr.P.C., victim stated that CICL/petitioner had pressed dupatta on her neck, but such dupatta was not seized by the police.

7. It is further pointed out that upon medical examination, victim's UPT was found negative, spermatozoa was



not seen in vaginal swab & bony/radiological age of victim found between 10 to 12 years and no definite opinion was given by the medical board.

8. Learned counsel also pointed out that the CICT/petitioner was not examined in terms of Section 53-A of the Code of Criminal Procedure (for short 'CrPC') despite of the fact that the CICT/petitioner was arrested immediately after the occurrence. While concluding argument, it is submitted that the investigation of the case has been completed and, as such, charge-sheet has been submitted, there is no chance of tampering with the evidence.

9. Learned counsel appearing on behalf of the CICT/petitioner submitted that mother of the juvenile-petitioner is ready to stand as a surety and furnish an undertaking that she will take care of the CICT/petitioner and shall ensure that he would not fall in bad company and would take all possible care to connect him with the mainstream of the society.

10. Learned APP for the State while opposing the prayer for bail submitted that there is specific allegation against the petitioner/CICT as to commit rape upon the informant/victim.

11. Having regard to the submissions and materials showing that the CICT/petitioner has been adjudged juvenile aged



about 16 years 01 month and 19 days on the alleged date of occurrence, and also as CICL/petitioner has remained in the Observation Home since 03.04.2024 and his mother is ready to stand as a surety and furnish an undertaking that if released on bail she will take care of the CICL/petitioner and shall ensure that he does not fall in bad company and, in case, the petitioner indulges in any unlawful act, she will inform it to the jurisdictional police station as also following the spirit of section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and in view of the exceptions carved out by the Hon'ble Division Bench of this Court in the case of **Lalu Kumar and Ors. Vs. The State of Bihar** reported in **2019 (4) PLJR 833** that classification of the offences under the bailable and non-bailable sections would not be relevant for the purpose of grant of bail to a juvenile and the prayer for bail of a juvenile may be rejected only under one of the three conditions, which are as under:-

- “(i) The release is likely to bring that person into association with any known criminal;
- (ii) The release is likely to expose the said person to moral or physiological danger; and
- (iii) The release would defeat the ends of justice.”

12. Having regard to the submissions made by the



parties and taking into consideration the materials on record as well as the period of incarceration of the petitioner/CICL and in the best interest of CICL, this Court is of the considered view that the impugned order passed by the court below is not in consonance with the aims and objectives of the Act. Even social investigation report suggest scope of reform and nothing adverse was noticed against him.

13. In view of the aforesaid facts and circumstances, as petitioner/CICL was found 16 years 01 month and 19 days on the date of occurrence, where the victim fails to name the petitioner during recording her statement under Section 164 of the CrPC, coupled with the fact that charge-sheet has already been submitted, where in social investigation report nowhere suggest that CICL/petitioner cannot be reformed in future as to join the main stream of society, accordingly, the order dated 27.11.2024 passed by learned 1st Additional Sessions Judge-cum-Special Judge (Children's Court), Sitamarhi in connection with Nanpur P.S. Case No. 154 of 2024 is hereby set aside.

14. The criminal revision application stands allowed.

15. Let the CICL/petitioner, named-above, be released 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 1st Additional Sessions Judge-cum-Special Judge (Children’s Court), Sitamarhi in connection with Nanpur P.S. Case No. 154 of 2024 on the following conditions:-

- (i) That one of the sureties should be the mother of the CICL/petitioner; and
- (ii) That the mother of the CICL/petitioner shall file an affidavit before the learned Juvenile Justice Board, Sitamarhi, giving specific undertaking that after release of the CICL/petitioner on bail, she will take proper care of the petitioner and will not allow him to fall into bad company.

(Chandra Shekhar Jha, J)

Rajeev/-

AFR/NAFR	NAFR
CAV DATE	NA
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