

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1328 of 2025

Arising Out of PS. Case No.-84 Year-2023 Thana- BHEJA District- Madhubani

Samresh Kumar @ Samresh Yadav @ Samresh Son of Dilip Kumar Yadav @ Dilip Kumar Dpak @ Dileep Yadav Resident of Village - Bakua, P.S.- Bheja, District - Madhubani.

... .. Appellant/s

Versus

1. The State of Bihar
2. Neha Bharti Daughter of Krishnadeo Bharti Resident of Village - Sundari, P.S.- Bheja, District - Madhubani, presently residing at - H. No.- 174, DDA Flat, P.S.- Tigri, District - South Delhi.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Murari Narain Chaudhary, Advocate

For the Respondent/s : Mr. Mukeshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 08-08-2025 The CICL is a boy aged about 17 years, who has filed the instant appeal under Section 101(5) of the Juvenile Justice (Care and Protection of Children) Act, 2015 assailing an order of rejection of bail passed by the learned Additional Sessions Judge-I-cum-Special Judge, Children's Court, Madhubani in Enquiry No.1586 of 2024, arising out of Bheja P.S. Case No.84 of 2023 on 18.02.2025.

2. For the purpose of proper adjudication of the instant appeal, the prosecution case is required to be narrated. Show of unnecessary details, prosecution case is that the victim girl had acquaintance with the CICL, who is a resident of Bheja in the District of Madhubani through Social media. They became friends on Instagram. On 27.07.2023, she came to



Village Sundari within Police Station Bheja, Madhubani, the CICL came to her house at night and forcibly established physical relationship with her.

3. Initially, the victim did narrate the incident to her family members. Subsequently, she was medically examined on 09.09.2023 at Pandit Madan Mohan Malviya Hospital, New Delhi and it was learnt from the medical examination report that the victim was pregnant, than only she disclosed the matter and a Zero FIR was lodged at police station Tigri South District Delhi. The said FIR was sent to the jurisdictional police station at Bheja, on the basis of which police registered a case under Section 376 I.P.C. read with Section 6 of the POCSO Act against the CICL.

4. Subsequently, charge-sheet was filed against the CICL under Section 376 I.P.C. read with Section 3, 4, 5 & 6 of the POCSO Act. Since, CICL was more than 16 years of age, the Board transmitted the case record to the Children's Court, Madhubani for disposal.

5. The instant appeal is filed when the prayer for bail of the CICL was rejected by the Children's Court.

6. It is contended on behalf of the appellant that he is a meritorious boy, falsely implicated in the instant case. No such incident involving the CICL happened, as alleged in the FIR.



Secondly, the Medical Officer on the date of medical examination of the victim girl found that she was pregnant for about 10 weeks. According to the FIR, the alleged incident took place on 27.07.2023. If the period of pregnancy on the date of medical examination of the victim was taken into consideration, it would be found that the victim had physical intercourse sometimes in the first week of July, 2023. This falsifies the allegation made by the victim that the alleged incident took place on 27.07.2023.

7. Medical report further shows that the age of the victim was more than 18 years on the date of commission of offence. Therefore, the CICL cannot be prosecuted under the POCSO Act.

8. Since, the victim did not disclosed the incident even to her parents, it means that the alleged incident was a consensual occurrence for which no charge under Section 376 of the IPC can be made. The appellant is in protective custody for about one year and due to a false case his brilliant academic career is on the verge of destruction.

9. Last but not the least, he had not past criminal record and therefore, he should be released on bail.

10. The learned Advocate on behalf of the prosecution has raised vehement objection against the prayer for bail of the



CICL.

11. Having heard the learned Advocates on behalf of the CICL and the prosecution, and on perusal of the materials on record, this Court finds that the length of pregnancy found by the medical officer at Madan Mohan Malviya Hospital, New Delhi on 09.09.2023 goes to suggest that the victim was subjected to physical intercourse sometimes in the first week of July, 2023. Had she been physical relationship with the CICL on 27.07.2023 and as a result of such physical relationship, became pregnant, the length of pregnancy had never been for 10 weeks.

12. The prosecution case is doubtful in this aspect, the learned Trial Judge did not considered the case properly to ascertained as to the veracity of the FIR.

13. No adverse report is forthcoming in the SIR and SBR of the CICL. He is pursuing his academic school. The prosecution case does not fall within the prohibition contained in the proviso to Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Therefore, this Court is of the view that the instant appeal ought to be allowed.

14. Accordingly, the order passed by the learned Additional Sessions Judge-I-cum-Special Judge, Children's Court, Madhubani in Enquiry No.1586 of 2024, arising out of Bheja P.S. Case No.84 of 2023 on 18.02.2025 is set aside.



15. In view of the aforesaid facts and circumstances, the appellant/CICL, above-named, may be granted bail on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each, one of whom must be a local surety, to the satisfaction of the learned Additional Sessions Judge-I-cum-Special Judge, Children's Court, Madhubani in connection with Enquiry No.1586 of 2024, arising out of Bheja P.S. Case No.84 of 2023, subject to further following condition that:-

(I) One of the bailor must be the mother of appellant.

(II) further condition that if on bail he shall be under the care and protection of his mother and under the supervision of the Probation Officer, who will submit quarterly report about the antecedent of appellant before the Board and if any such report is found to be unsatisfactory, the Board is at liberty to cancel the order of bail without reference to this Court.

16. With the above order, the instant appeal is allowed.

(Bibek Chaudhuri, J)

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