

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4630 of 2025

Arising Out of PS. Case No.-728 Year-2023 Thana- MANER District- Patna

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XXX, (Real name withheld)

... .. Appellant/s

Versus

1. The State of Bihar
2. XXX, (Real name withheld)

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Pramhansh Kumar Puri, Advocte
For the State	:	Mr. Bal Mukund Prasad Sinha, APP
Amicus Curiae	:	Mr. Bimlesh Kumar Pandey, Advocate

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT

Date : 04-05-2026

The present appeal has been preferred by the appellant against the impugned order dated 08.10.2025, passed by learned Ist Additional District and Sessions Judge -cum- Special Judge, Juvenile Court, Patna in Special (Child) Case No. 18 of 2025, arising out of Maner P.S. Case No. 728 of 2023, registered on 08.10.2023 against the Appellant and other five co-accused for the offence punishable under Sections 376(D) and 120(B) of the Indian Penal Code, whereby the regular bail petition of the Appellant has been rejected by learned Court below holding that previously regular bail application of the appellant was rejected and revision petition filed against rejection order has been dismissed. He further submits that during trial, the victim has been examined who has not



identified the appellant, whereas as per the F.I.R., the appellant was one of the accused arrested on the place of occurrence.

2. The said F.I.R. was lodged on the fardbeyan of the victim herself. As per the fardbeyan, the appellant and other five co-accused committed gang rape upon the victim.

3. After investigation, charge-sheet was submitted against the Appellant and other co-accused. By the order dated 31.01.2024, the appellant was found to be 16 years, 10 months and 18 days old by Juvenile Justice Board, Patna. After assessment of age and maturity of the appellant under Section 15 of the J.J. Act, the case was sent to Children Court for his trial as adult and thereafter, vide order dated 08.10.2025, regular bail application of the appellant has been dismissed.

4. I heard learned counsel for the appellant, learned APP for the State and Mr. Bimlesh Kumar Pandey, learned Amicus Curiae.

5. Learned counsel for the appellant submits that the appellant is innocent and has falsely been implicated in this case. He further submits that there is joint trial of the appellant and co-accused, who is also juvenile, is going on before the Children Court and during trial, the victim has clearly stated that the appellant and the other co-accused were not involved in the



offence committed against her. They were not even present in the place of occurrence and she has seen the appellant and other co-accused for the first time in the Court. Prosecution case against the appellant does not stand. In such situation, there is no question of detaining the appellant either in Observation Home or any other institutions.

6. However, learned APP for the State vehemently opposes the prayer of the appellant for bail submitting that the alleged offence is very serious in nature because the appellant and other co-accused have allegedly committed gang rape and prior to examination of the victim during the trial, there was strong prosecution case against the appellant because the appellant was arrested on the place of occurrence.

7. Learned Amicus Curiae submits regarding the law governing release of juvenile in conflict with law on bail under J.J. Act is Section 12 which deals with release of juvenile in conflict with law on bail and as per Section 12 of J.J. Act, denial of bail is exception. He also submits that even application of Section 12 of J.J. Act, presupposes prosecution case against the accused or appellant, but at this stage, when the victim has been already examined during the trial, she has clearly given clean chit to the appellant and the prosecution case against the



appellant does not stand. In such situation, denial of bail of the appellant would be great miscarriage of justice because reformation of the juvenile in conflict with law, presupposes the commission of offence by the appellant, but in view of the evidence of the victim during trial, the appellant appears to be innocent and in such situation, denial of bail to the appellant would be grave injustice to the people.

8. I considered the submissions advanced by both the parties and learned Amicus Curiae.

9. I agree with learned Amicus Curiae that the first and foremost requirement for detaining the juvenile in conflict with law in Observation Home or other institutions as provided under J.J. Act, presupposes prosecution case against the accused/appellant, if there is no evidence on record against the appellant. There is no question of depriving the appellant of his right to liberty, he would be entitled to get bail irrespective of Section 12 of J.J. Act, which provides bail as a rule and denial of bail is an exception in case of juvenile in conflict with law.

10. Hence, considering the fact that the alleged victim, who is star witness of the prosecution, has clearly deposed before the Children Court during the trial that the appellant was neither present on the place of occurrence, nor



was he involved in the alleged offence. Hence, there is no ground of denial of bail to the appellant.

11. Accordingly, the present appeal is allowed, directing the appellant to be released on bail, subject to furnishing the bail bond of Rs.10,000/- and undertaking by his father by way of affidavit that he would keep vigil on the appellant regarding his habits and he would not allow the appellant to come in contact with any criminal persons and take care of other developmental needs of the appellant and the appellant would attend the Court as and when required or directed.

12. The Lower Court Records be sent back to the Court concerned forthwith along with a copy of this judgment.

13. Assistance provided by learned Amicus Curiae is highly appreciated. However, learned Amicus Curiae says that he has assisted this Court *pro bono* and he is requesting not to give direction for payment of any honorarium.

(Jitendra Kumar, J.)

ravishankar/-

AFR/NAFR	NAFR
CAV DATE	N/A
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