

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.673 of 2025

In
CRIMINAL APPEAL (SJ) No.3911 of 2024

Arising Out of PS. Case No.-62 Year-2023 Thana- BALIGAON District- Vaishali

Sumit Kumar, s/o Bhola Paswan, resident of village- Khoajpur, P.S.-
Baligaon, District- Vaishali.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Indu Sinha W/O Dayanand Prasad R/O Khoajpur, P.S- Baligaon, Distt.-
Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Krishna Prabhat, Adv.
For the Respondent/s : Mr.Anand Mohan Prasad Mehta, APP

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR SINGH
ORAL ORDER

10 17-03-2026 1-This Criminal Revision under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (in short 'the JJ Act') has been preferred by the petitioner against the order dated 18.06.2024 passed by the learned Additional Sessions Judge-I-cum-Presiding Officer, Children Court, Vaishali at Hajipur in Criminal Appeal No.18 of 2023, affirming the order passed by the learned Principal Magistrate, Juvenile Justice Board, Vaishali, in connection with Baligaon Case No.62/2023, District- Vaishali at Hajipur, whereby prayer for bail of the petitioner has been rejected.

2-Heard learned counsel for the petitioner, learned



Additional Public Prosecutor representing the State of Bihar and perused the record.

3-Brief facts of the case, which are required to be stated are that the informant, who is grandmother of the victim got a First Information Report lodged on 02.06.2023 at around 02:10 PM against five named persons stating inter-alia that on 01.06.2023 at about 09:10 pm she went to sleep at home and her three grand-daughters were at home and they were chatting with each other. After sometime she heard someone crying, which woke her up. When she woke up, she saw her grand-daughter (herein after referred to as 'victim'), aged about 16 years sitting in the next room crying. When she asked her why she was crying, victim told her that she was going to bathroom at night and the main gate made of filth was rattling. As soon as she opened the door, five boys dragged her towards the gachhi and raped her one by one. Thereafter they forced her to swallow a phenyl tablet. She cried and said that she would not survive. She observed that her salwar was heavily stained with blood. The victim also disclosed that she identified all the five accused as: (1) Sumit Kumar, son of Bhola Paswan; (2) Neeraj Kumar, son of Lakhendra Paswan; (3) Avinash Kumar, son of Ashok Paswan; (4) Sushin Paswan, son of Shambhu Paswan, who are



resident of Khawajpur and (5) Rahul Kumar (*alias* Dhauli) son of Phalel Sahni, who is resident of Kuriya. Then She lost consciousness. With the help of villagers she was admitted to Patepur PHC, from where she was referred to Sadar Hospital, Hajipur, where she remained unconscious and under treatment.

4-The petitioner was arrested and produced before the Juvenile Justice Board. An application under Section 12 of the Act has been filed before the Juvenile Justice Board for grant of bail to the petitioner. The learned Juvenile Justice Board rejected the bail application of the petitioner.

5-Being aggrieved thereof, an appeal was preferred before the appellate Court, but the learned Additional Sessions Judge-I-cum-Presiding Officer, Children Court, Vaishali at Hajipur affirmed the order of the Juvenile Justice Board and dismissed the appeal. Hence, this revision.

6-Learned counsel for the petitioner, assailing the impugned orders, submits that the petitioner was a juvenile on the date of the alleged incident dated 01.06.2023 and he has been declared juvenile by the Juvenile Justice Board treating his age as 17 years on the date of alleged incident. The petitioner has remained confined in juvenile home since 03.06.2023, who has no criminal history. Learned counsel for the petitioner



further relying upon the judgments of the co-ordinate Bench of this Court in the matters of Shashi Kumar vs. The State of Bihar passed in Criminal Revision No.341 of 2023 and Juvenile “X” vs. The State of Bihar passed in Criminal Revision No.613 of 2023 and analogous cases, submits that on ground of seriousness or heinousness of the offence, the bail application of juvenile cannot be rejected. The bail application of a juvenile can only be refused if there appears to be a reasonable ground for believing that his release is likely to bring him into association with any known criminals or expose him to moral danger. In the present case there is no material on record for believing that the release of petitioner is likely to bring him into association with any known criminal or expose him to moral, psychological danger, therefore, aforesaid impugned orders are not sustainable and liable to be set aside and petitioner is entitled to be released on bail in view of Section 12 of Juvenile Justice (Care and Protection of Child) Act, 2015.

7-Learned Additional Public Prosecutor opposed the prayer for bail of the petitioner reiterating the prosecution case as mentioned in F.I.R.. It is also pointed out that victim in her statement recorded before the trial Court has supported the prosecution case making allegation of rape on her against the



accused persons of this case. Much emphasis has been given by contending that the petitioner is a person of hardened criminal mind and is also an imminent danger to the public at large. There is reasonable apprehension that if the petitioner is released on bail, there is every likelihood that he may be exposed to moral or psychological danger to the victim. The bail sought for has been rightly refused in view of Section 12(1) of Juvenile Justice (Care and Protection of Child) Act, 2015.

8-Admittedly, on the date of incident, the age of petitioner was 17 years. A juvenile offender who is above 16 years of age and below 18 years of age is not entitled as of right to be enlarged on bail.

9-The Court has to see whether the opinion of the learned appellate Court as well as Juvenile Justice Board recorded in the impugned judgment and orders are in consonance with the provision of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Section 12 of the aforesaid Act lays down three contingencies in which bail could be refused to juvenile. They are:-

(i) if the release is likely to bring him into association with any known criminal, or



(ii) expose him to moral, physical or psychological danger, or

(iii) that his release would defeat the ends of justice.

10-Having heard the learned counsel for the parties and gone through the record, this Court finds that:-

10.1-It is a case of gang rape on minor child (victim) by five boys.

10.2-F.I.R. was promptly lodged by the informant on the narration of incident by the victim.

10.3-The victim during investigation in her statement under section 161 Cr.P.C. and 164 Cr.P.C. as well as in her statement recorded before the trial Court has supported the prosecution case giving vivid description of the incident making allegation of gang rape against all the five accused persons including the petitioner.

10.4-In the medical examination report of the victim, abrasions were wound on her body. Bleeding was present on her private part and her hymen was found freshly torn. In the opinion of doctor victim was given some poison, which prima-facie support the prosecution case.

10.5-Till date 5 prosecution witnesses including the victim, out of 12 prosecution witnesses have been examined



before the trial Court and trial of the petitioner is proceeding.

11-This Court is of the view that gang rape is the most heinous, hated, morally and physically reprehensible crime in a society, as it is an assault on the body, mind and privacy of the helpless victim. It also shakes the spirit and very core of the life of the victim and leaves a permanent scar on her life.

12-The trial of the petitioner is going on as an adult, therefore, in view of the legal position applicable to the present case, in case of conviction of the petitioner, he can be sentenced for more than three years' except life or death. In case, the petitioner is released on bail, there is a strong possibility of his being in danger morally, physically or psychologically and he may again get involved in criminal activities.

13-In the matter of bail of juvenile, the Court has to see literally through a prism having three angles, i.e. firstly, the angle of welfare and betterment of the child itself, secondly, the demands of justice to the victim and her family and thirdly, the concerns of society at large.

14-The further details relating to the incident need not be referred to herein since the allegations of the prosecution and the defence thereto is still open to be urged by the parties in the



trial Court.

15-So far as both the aforesaid judgments relied upon on behalf the petitioner is concerned, this Court is of the view that it is well settled that every case turns on its own facts. Even one additional or different fact may make a big difference between the conclusion in two cases, because even a single significant detail may alter the entire aspect. The said judgements are distinguishable on the facts, hence same are not helpful to the petitioner.

16-Under the facts and circumstances of the case, in case petitioner is released on bail, then his release would defeat the ends of justice.

17-In view of the above, the findings recorded by the learned Courts below are not erroneous and cannot be said to be unsustainable. The aforesaid impugned orders are not liable to be interfered with, which are wholly impeccable.

18-As a fall out and consequence of the above, the present Criminal Revision lacks merit, and is accordingly, *rejected*.

19-However, it is made clear that the observations contained in the instant order are confined to the issue of bail



and shall not effect the merit of the trial.

20-Taking into the consideration the nature of the offence and stage of trial, it would be appropriate that the trial of the petitioner be concluded at earliest. Accordingly, trial Court shall make all efforts to conclude the trial as expeditiously as possible.

(Sanjay Kumar Singh , J)

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