
(2010) 03 PAT CK 0093
In the Patna High Court

Bir Bahadur Chaudhary

APPELLANT

Vs

The State of Bihar and Etwaria Devi

RESPONDENT

Date of Decision : 11-03-2010

Acts Referred:

Juvenile Justice Act, 1986 — Section 12

Citation : (2010) 03 PAT CK 0093

Hon'ble Judges : Mandhata Singh, J

Bench : Single Bench

Judgement

Mandhata Singh, J.—Heard learned Counsel for the petitioner and learned Counsel for the Opposite Parties.

2. Literature and philosophy appear more effective while disposing of this case. Science effecting ability to sex is one thing and that is prohibited is another thing. In India, marriage was being solemnized of minors, for that preventive measure was taken to not marry a girl before 18 and a boy before 21 but below 18 and 21 they will not be able to have sex or that is not developed is quite different thing. Without having knowledge in depth, Judicial Officer should avoid to make comments on that side. Admittedly, the victim and the petitioner are minors. Both indulged in sexual act. Liability upon the petitioner is that he took the girl with him to different places and indulged in sex with her but there appeared no abnormality if nature was prohibiting for sex. Once, a lady specifically a minor girl is assaulted sexually, there is every kind of humiliation and observation of the Additional Sessions Judge is correct to that extent. But he never cared treatment which should be given to a juvenile, who is able to have sex. Law is also prohibiting him but not nature.

3. At the one hand, nature of the offence is against him but privilege u/s 12 of the Juvenile Justice Act is there in his favour. In no case, gravity of the offence is to be taken into consideration while considering bail to a Juvenile in conflict with law. It can be only denied if it appears reasonable ground for believing that release is likely to bring him in association with any known criminal or expose

him moral, physical or psychological danger or that his release would defeat the ends of justice. There is nothing mentioned that he was in contact with any own criminal and how there was any exposure to him to moral, physical and psychological danger or his release would defeat the ends of justice nor explained nor clarified and in my view that is not existing.

4. Thus, the conclusion reached by the learned Additional Sessions Judge-Ist, Aurangabad as well as Juvenile Justice Board, Aurangabad is not liable to be sustained.

5. Accordingly, the revision application is allowed and order dated 10.02.2010 passed by the 1st Additional Sessions Judge, Aurangabad in Cr. Appeal No. 52 of 2009/02 of 2010 and the order dated 19.11.2009 passed by the Juvenile Justice Board, Aurangabad in G.R. No. 500 of 2009, Tr. No. 418 of 2009 arising out of Daudnagar P.S. Case No. 141 of 2009 are hereby set aside.

6. Let the above named petitioner be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of Principal Judicial Magistrate, Juvenile Justice Board, Aurangabad in connection with GR. No. 500 of 2009, Tr. No. 418 of 2009 arising out of Daudnagar P.S. Case No. 141 of 2009.

7. One of the bailers shall be the father of the petitioner, who would undertake to keep the petitioner under his observation and control and produce whenever is required by the Juvenile Justice Board or Court.

8. Let the order be communicated through F.A.X. at the cost of the petitioner.