

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.916 of 2017

- =====
1. Rajesh Kumar @ Rajesh Mandal, son of Sudhir Mandal, resident of Village Madhukarchak, PS Bihariganj, District Madhepura through his natural guardianship of father Sudhir Mandal
 2. Sanoj Kumar @ Sanoj Mandal, son of Dayanand Mandal @ Gayanath Mandal resident of Village Arajpur, PS Chousa, District Madhepura through his natural guardianship of father Dayanand Mandal @ Gayanath Mandal

.... Petitioners

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Petitioners : Mr. Pramod Mishra
Ms. Monika

For the Respondent : Mr. Sri Satya Nand Shukla

For the Informant : Mr. Ashok Kumar Yadav

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

5 23-11-2017

Heard learned Counsel for the petitioners as well as the learned Counsel for the State.

This revision application is preferred against the judgment dated 5.7.2015 passed in Cr. Appeal No. 27 of 2017, whereby the learned Sessions Judge, Madhepura has affirmed the order dated 7.6.2017 passed by the Juvenile Justice Board, Madhepura rejecting the prayer of bail of the petitioners who are accused in Chousa PS Case No. 14 of 2017 registered under Sections 302, 120B and 34 of the IPC.

The allegation is that the nephew of the informant and a grand son of the accused persons were playing ball and both quarreled with each other, so the accused persons being enraged entered into the house of the informant and assaulted the informant's father. It is



alleged that Rajesh Mandal gave iron rod blow on his head and Sanoj Mandal assaulted with lathi, danda, legs and fists. The informant's father later on during treatment succumbed to the injuries.

Learned Counsel for the petitioners submits that both the petitioners were declared juvenile after holding enquiry relating to their age determination. Sanoj is 17 years 10 months and Rajesh is 15 years 10 months and both courts have rejected their bail petition without any material on record for rejection. These petitioners have no criminal antecedent so there is no question of going in the association of known criminals.

Other side has opposed the prayer of bail of these two petitioners.

Having considered the rival submissions and on perusal of the record this is admitted position that both the petitioners were declared juvenile in accordance with law by the Board. Their bail applications were rejected on the ground that the social investigation report indicates they are indisciplined and in case of release may go in the association of known criminals or may be exposed to moral, physical or psychotically danger. The same is contrary to the materials on record. As submitted the petitioners have no criminal antecedent and there is no material also in both the impugned orders showing that these petitioners have any criminal antecents or any police report regarding their antecedent supporting this aspect. The report of the Social Back Ground Report that they are indisciplined is



no ground for rejection of the bail. Generally grant of bail to a juvenile is rule and rejection is exception irrespective of nature of offence in view of Section 12 of the Juvenile Justice (Care and Protection of Children) Act. The learned appellate court has rejected the bail considering the nature of offence but on that ground bail to juvenile cannot be rejected unless the juvenile on release may go in association of known criminal or exposed to moral physical or psychological danger or not in interest of justice but there is no material on record to show that he is in association of known criminals or on release may be exposed to moral physical or psychological danger or not in the interest of justice.

So the petitioners namely Rajesh Kumar @ Rajesh Mandal and Sanoj Kumar @ Sanoj Mandal both are directed to be released on bail on their furnishing bail bonds of Rs. 10,000/- by each one of them with two sureties of the like amount each to the satisfaction of SDJM Udakishunganj, District Madhepura.

One of the bailors must be a family member and their fathers shall file undertaking that they will not indulge in any criminal activity in future.

The application stands allowed.

(Arun Kumar, J.)

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