

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1226 of 2018

Arising Out of PS. Case No.-113 Year-2018 Thana- FULKAHA District- Araria

GAURAV KUMAR PODDAR @ GAURAV KUMAR @ GAURAV
PODDAR Son of of Awadhesh Poddar @ Amlesh Poddar Resident of Village-
Manikpur, Ward No. 8 P.S. Fulkaha, Distt.-Araria

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Pandey
For the Respondent/s : Mr. Sri Dinesh Singh

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 22-11-2018 This revision application is directed against the order dated 07.09.2018 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Ararai, in Special (child) Case No.11 of 2018 arising out of Fulkaha P.S.Case No.113 of 2018 by which the prayer for bail of the petitioner was rejected.

The prosecution case as per the F.I.R. appears that the police on receipt of secret information with co-accused Raju Kumar Paswan on the basis of his confessional statement raided the house of the petitioner Gaurav Kumar Poddar and on search a looted Hero Splendor Pro. Motorcycle was recovered from his house and on that basis a case was instituted as Fulkaha P.S. Case No.113 of 2018.

The petitioner after arrest in this case claims himself



to be juvenile before the learned juvenile justice Board, in support of which he submitted mark sheet bearing his date of birth and then the petitioner was declared juvenile assessing his age as 16 years 5 months and 28 days vide his order dated 21.07.2018 which will appear from Annexure-2.

As petitioner was found to be aged about more than 16 years and the court considered the offence under category of heinous crime under the provision of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, as such it appears that case was sent to the Children Court. Thereafter the petitioner moved for bail before the learned 1st Additional Sessions Judge-cum-Special Judge, Araraia in Special (child) Case No.11 of 2018 who after hearing the parties rejected his prayer for bail vide order dated 07.09.2018 on the ground that the recovery of looted motor cycle was affected from the possession of the petitioner.

The petitioner has assailed the aforesaid order on the ground that the learned Special Judge has failed to consider that Section 12 of the J.J.B.(Care and Protection) Act provides for bail unless the same does not expose the child in conflict with law to the social and psychological danger or it defeats the ends of justice, however, without considering the same and without



any adverse report, prayer for bail was rejected. Further in this case F.I.R. itself shows that co-accused claims to have given motor cycle to Gaurav Kumar Poddar, moreover, there is no criminal antecedent.

Heard the learned A.P.P. who opposed the prayer for bail and submitted that there is nothing on the record to show that the order is not sustainable.

Having heard both sides and from the record it appears that though recovery of motor cycle from the house of the petitioner, at the instance of the co-accused. Further impugned order does not show that he has any criminal antecedent. Further it appears that no social investigation report or any other material available on record to show that there is chance of exposure of the petitioner to the social, moral and psychological danger or it defeats the ends of justice. On the other hand, father of the petitioner undertakes to protect him from contact of hardened criminal. How without considering the above, prayer for bail of the petitioner was rejected. It further appears that the juvenile is in custody since 30.06.2018.

Having heard both sides and in view of the facts and circumstances of the case, as stated above, this revision application is allowed. Let the petitioner, above named, be



released on bail on furnishing bail bond of Rs.10,000/- with two sureties of the like amount each to the satisfaction of the 1st Additional Sessions Judge-cum-Special Judge, Araria, in Special (child) Case No.11/18 arising out of Fulkaha P.S.Case No.113/18 subject to the condition that one of the bailors must be father of the petitioner who will undertakes to protect the petitioner from coming into contact of hardened criminal and he will also be under under supervision of Probation Officer and who if finds anything adverse, may move for cancellation of his bail bond.

(Vinod Kumar Sinha, J)

aks/-

U			
---	--	--	--

