

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.216 of 2019

Arising Out of PS. Case No.-329 Year-2018 Thana- DAUDNAGAR District- Aurangabad

PRAKASH KUMAR, aged about 15 years, Male, Son of Shri Suraj Yadav, under the guardianship of his father Suraj Yadav, son of - Late Bachchu Singh, resident of Village- Ankodha, P.S.- Daudnagar, District- Aurangabad.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner	:	Ms. Sudha Ambastha and Ms. Anjana Gupta, Advocates.
For the Informant	:	Mr. Uday Pratap Singh, Advocate.
For the State	:	Mr. Dr.Mrityunjaya Kr.Gautam, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

6 19-09-2019 Heard learned counsel for the petitioner, learned counsel for the informant and learned counsel for the State.

This Criminal Revision has been preferred against the order dated 19.01.2019, passed by learned 1st Additional District and Sessions Judge, Aurangabad in Criminal Appeal No. 01/2019/02/2019, whereby and whereunder learned 1st Additional District and Sessions Judge, Aurangabad, has upheld the order dated 13.12.2018, passed by learned Juvenile Justice Board, Aurangabad in G.R. Case No. 864 of 2018, Juvenile Justice Board Case No. 766 of 2018, corresponding to Daudnagar P.S. Case No. 329 of 2018, whereby learned Juvenile Justice Board, Aurangabad, has rejected the prayer for bail of



the petitioner in connection with Daudnagar P.S. Case No. 329 of 2018, registered under Sections 302 and 201/34 of the I.P.C.

The prosecution story, in brief, is that the informant Pushpa Kumari is serving as Grade Nurse at Arwal Hospital. Her mother Jaimanti Devi alias Jaya Upadhya was living with Jai Kishan alias Kannu, adopted son of her husband. The said Jaimanti Devi turned traceless since 12.09.2018. When the informant asked from Jai Kishan alias Kannu about her mother, Kannu said that her mother gone to Haridwar and she would return by 24/25.09.2018, but Jaimanti Devi did not return even by the fixed date expected then suspicion arose. She put pressure on Jaikishan alias Kannu who disclosed that he alongwith his friends, namely, Manish Kumar, Bala @ Sujit Kumar alongwith Prakash Kumar (petitioner) committed the murder of her mother at the night of 12.09.2018 at the midnight by way of gagging her mouth and her dead body was buried near *Gobardhan Mountain*.

It has been submitted by learned counsel for the petitioner that the petitioner is languishing in custody since 27.09.2018. The petitioner has got no criminal antecedent. Charge sheet has been submitted in the present case. The name of the petitioner has come in the present case on confession of



co-accused. Except for this, there is no substantive evidence to suggest the implication of the petitioner in the present case. There is no eye witness to the alleged occurrence.

The report of the Probation Officer is that the mental condition of the petitioner is found normal. The petitioner is ordinary in study. In the report, it is also suggested that the benefit of Juvenile Justice can be given to the petitioner. Further the report of the Probation Officer does not reveal that there is material to substantiate that the petitioner lacks proper parental care nor there is any conclusive finding by the Probation Officer that in the event of grant of bail the petitioner is likely to go into association of known criminals.

The law requires that reasonable grounds should be there for believing that in the event of grant of bail the petitioner would go into association of any “known criminal” or exposed to moral, physical and psychological danger or the release of the person would defeat the ends of justice. There is no reference of any known criminal nor there is any other substantial material for the conclusion as recorded by the court below.

Hence, the impugned order suffers from failure to exercise jurisdiction vested in law, is result of error apparent on the face of the record and non-consideration of provisions of



law. Accordingly, this Criminal Revision is allowed and the order dated 19.01.2019, passed by learned 1st Additional Sessions Judge, Aurangabad in Criminal Appeal No. 01/2019/02/2019 and the order dated 13.12.2018, passed by learned Juvenile Justice Board, Aurangabad in G.R. Case No. 864 of 2018, Juvenile Justice Board Case No. 766 of 2018, corresponding to Daudnagar P.S. Case No. 329 of 2018, are set aside.

Let the petitioner, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of either of his parents on execution of surety bond of Rs. 5,000/- (Five Thousand) to the satisfaction of learned Juvenile Justice Board, Aurangabad in connection with G.R. Case No. 864 of 2018, Juvenile Justice Board Case No. 766 of 2018, corresponding to Daudnagar P.S. Case No. 329 of 2018, with the condition that the petitioner will be produced as and when required by the Juvenile Justice Board for co-operation of his enquiry.

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(Sudhir Singh, J)