

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.259 of 2019

Arising Out of PS. Case No.-207 Year-2018 Thana- KHAGARIA District- Khagaria

NITISH KUMAR Son of Ful Kumar R/o Village- Barkhandi Tola, P.S.- Khagaria (Muffasil), District- Khagaria under the guardianship of his Aunt Jaimala Devi wife of Chandrachu Yadav, R/O Village- Barkhandi Tola, P.S. Khagaria (Muffasil) , District- Khagaria.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

with

CRIMINAL REVISION No. 301 of 2019

Arising Out of PS. Case No.-207 Year-2018 Thana- KHAGARIA District- Khagaria

SUJAY YADAV @ SUJIT KUMAR Son of Aatma Ram Yadav R/o village- Barkhandi Tola, P.S.- Khagaria (Muffasil), Distt.- Khagaria under the guardianship of his mother Shanti Devi wife of Aatma Ram Yadav R/o village- Barkhandi Tola, P.S.- Khagaria (Muffasil) , District- Khagaria.....

Petitioner/s

Versus

The State of Bihar..... Respondent/s

Appearance :

(In CRIMINAL REVISION No. 259 of 2019)

For the Petitioner/s : Mr.Chandan Kumar Kashyap

For the Respondent/s : Mr.Satyavrat Verma

(In CRIMINAL REVISION No. 301 of 2019)

For the Petitioner/s : Mr.Chandan Kumar Kashyap

For the Respondent/s : Mr.Brajendra Nath Pandey

CORAM: HONOURABLE MR. JUSTICE PRAKASH CHANDRA JAISWAL

ORAL ORDER

- 3 22-05-2019 1. As both the aforesaid Criminal Revisions have cropped up from the same P.S. case, hence aforesaid two Criminal Revisions are being heard together and disposed of by this common order.
2. Petitioners have preferred both revision applications under Section 102 of the Juvenile Justice (Care and



Protection of Children) Act, against the order dated 22.01.2019 and 11.02.2019 passed by learned 1st Additional Sessions Judge, Khagaria, in Cr. Appeal No. 28 of 2018 and Cr. Appeal No. 30 of 2018 respectively by which the order dated 28.09.2018 and 06.11.2018 respectively passed by the learned Juvenile Justice Board, Khagaria in connection with Khagaria (Muffasil) P.S. Case No. 207 of 2018 registered for the offence under Sections 147, 148, 149, 448, 341, 323, 307, 379/120B of the Indian Penal Code and Section 27 of the Arms Act has been confirmed and the prayer of the petitioner for grant of bail has been rejected.

2. Heard the learned counsel for the petitioners and the learned A.P.P. for the State.

3. Petitioners along with other co-accused persons armed with firearm and deadly weapons are said to have descended at the house of the informant and on exhortation of accused Atmaram Yadav, accused Ashok Yadav resorted firing by means of rifle which hit abdomen of the Rato Devi which proved fatal. Other co-accused persons also resorted firing and assaulted the family members of the informant by means of lathi.

4. It is submitted by learned counsel for the petitioners that no such occurrence as alleged ever took place. Petitioners



have been falsely implicated in the case. They do not happen to be the assailants. The allegation levelled against the petitioners (minors) is not specific rather general and omnibus in nature. No incriminating article has been recovered from their conscious physical possession. They are minors. They have been languishing in custody since 14.9.2019 and 24.9.2018 respectively. Charge-sheet has already been submitted by the police. Similarly situated other accused persons namely Dilip Yadav @ Dilip Kumar Yadav, Raj Kumar Yadav, Deepak Yadav @ Deepak Kumar, Sachita Yadav, Phul Kumar @ Phul Kumar @ Kumar Yadav have been enlarged on bail by different co-ordinate Bench of this Court. Aunt of the petitioner namely Nitish Kumar is ready to take custody and proper care of him whereas mother of the petitioner Sujay Yadav @ Sujit Kumar is ready to take custody and proper care of him.

5. Learned A.P.P. for the State opposed the prayer of the minors petitioners.

6. After hearing the learned counsel for the both the parties and on perusal of the materials available on record, I find substance in the contention of the learned counsel for the petitioners.

7. Considering the facts and circumstances stated



above, in my opinion, the impugned orders are not fit to be sustained. Hence, impugned orders are set aside. The petitioners abovementioned are directed to be released on bail on furnishing bail bond of Rs. 10,000/- each with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board in connection with Khagaria (Muffasil) P.S. Case No. 207 of 2018 on the following terms and conditions:-

(i) One of the bailors of minor Nitish Kumar will be his aunt whereas one of the bailors of minor Sujay Yadav @ Sujit Kumar will be his mother.

(ii) Both the aforesaid bailors of the petitioners will produce the petitioners in the court if and when required.

(iii) The petitioners will not indulge in similar or in any other offence.

(iv) in case of their absence for two consecutive dates or in case of violation of the terms of the bail, their bail bond will be liable to be cancelled by the learned Juvenile Justice Board, Khagaria and he will be taken into custody.

8. In the result, both applications are allowed.

(Prakash Chandra Jaiswal, J)

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