

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.441 of 2019**

Arising Out of PS. Case No.-300 Year-2017 Thana- BARHARA District- Bhojpur

Chotu Miya @ Chotu Nawab Son of Idrish Miya Resident of Village-
Matukpur, P.S.- Barahara, District- Bhojpur. Under the natural Guardianship
of natural mother of the petitioner namely Hajra Begum.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rama Kant Singh
For the Respondent/s : Mr.Zainul Abedin

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER**

3 30-07-2019 Heard learned counsel for the petitioner and learned
APP for the State.

This Criminal Revision has been preferred against the
order dated 15.01.2019 passed by the Sessions Judge, Bhojpur
at Ara in Criminal (Juvenile) Appeal No.42 of 2018, whereby
and where under the Sessions Judge, Bhojpur at Ara has upheld
the order dated 28.08.2018 passed by the Juvenile Justice Board,
Bhojpur at Ara in Juvenile Justice Board Case No.1278 of 2017
arising out of Barahara P.S. case No.300 of 2017, whereby
learned Juvenile Justice Board, Bhojpur at Ara has rejected the
prayer for bail of the petitioner in connection with Barahara P.S.
case No.300 of 2017, registered under Sections 341, 323,
302/34 of I.P.C.



Allegation is that the petitioner had given knife blow to the informant's son, namely, Kamlesh Pandit, due to which he received injuries in elbow and left hand. He was taken to the Hospital for treatment and during treatment he died.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 28.10.2017 and has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner is alleged to have given a knife blow on the non-vital part of the body of the deceased. The petitioner had no intention to commit murder of the deceased. There was scuffle which had taken place with the father of the petitioner. To save his father in a spur of moment he had given a knife blow.

The report of the Probation Officer is that mental condition of the petitioner was found normal. Due to poverty he did not pursue his study after Class V. In the report, it is also suggested that the benefit of Juvenile Justice Act 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 15.01.2019 passed by the Sessions Judge, Bhojpur at Ara in Criminal (Juvenile) Appeal No.42 of 2018 and the order dated 28.08.2018 passed by the Juvenile Justice Board, Bhojpur at Ara in Juvenile Justice Board Case No.1278 of 2017 arising out of Barahara P.S. case No.300 of 2017 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, Bhojpur at Ara in connection with Juvenile Justice Board Case No.1278 of 2017 arising out of



Barahara P.S. case No.300 of 2017, with condition that the petitioner will be produced as and when required by the Juvenile Justice Board for co-operation of his inquiry.

(Sudhir Singh, J)

Narendra/-

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