

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.64 of 2020**

Arising Out of PS. Case No.-139 Year-2019 Thana- KHAJANCHI HAT District- Purnia

1. PRIYANSHU KUMAR @ PRIYASH @ BAJRANGI Son of Bhushan @ Mani Bhushan Kumar Raman @ Anil Bhagat Resident of Krishnapuri, P.S.- Sahayak (K.Hat), District- Purnea, through his father and natural guardian namely Bhushan @ Mani Bhushan Kumar Raman @ Anil Bhagat Son of Harinandan Bhagat.
2. Aditya Kumar Singh @ Rishi Son of Sushil Kumar Singh Resident of Mohalla- Shivpuri Ward No. -23, P.S.- K. Hat, District- Purnea through his father and natural guardian namely Sushil Kumar Singh Son of Late Maheshwar Prasad Singh.

... .. Petitioners

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner/s	:	Mr.Ajay Kumar Thakur, Advocate
For the Respondent/s	:	Mr.Shailendra Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

7 18-08-2020 The two petitioners in this case are juvenile who are seeking to challenge the order dated 19.12.2019 passed by learned 1st Additional Sessions Judge-cum-Special Judge, Purnea in Cr. Appeal No. 47/2019/C.I.S. No. 47/2019 which was dismissed by the impugned order and the order passed by the learned Juvenile Justice Board, Purnea in G.R. No. 704 of 2019 arising out of K. Hat P.S. Case No. 139 of 2019 refusing the application of the petitioners for release on bail has been maintained.

From the allegations made in the first information



report, it appears that one Gaurav Kumar Singh gave his fardbeyan alleging that on 03.03.2019 in the night at 8.30 P.M. the co-accused Sriman Kumar Singh had come to his house and enquired about his younger brother Aditya Kumar @ Mono. These petitioners who were the alleged associates of said Sriman Kumar Singh had also come and had allegedly informed the informant that tomorrow they will kill the brother of the informant. Next day at about 1.50 P.M. Sriman made a mobile call to the brother of the informant, thereafter the informant's brother informed him that Sriman Singh and these petitioners had called him for the money transactions relating to the mobile, near to the polytechnic field.

The informant claims that he also went behind his brother within five minutes and found that Sriman and these petitioners were going towards the bush keeping their hands on his shoulder. After sometime the three accused persons fled away towards Maranga on a motorcycle bearing No. BR 11W/6975. The informant thereafter claims that he went near the



ridge/bush where he found that his brother was lying in a pool of blood and he was restless. In the meantime, the elder brother of the informant also came and both the brothers took the injured to Sadar Hospital where he was declared dead.

Learned counsel for the petitioners submits that so far as these two petitioners are concerned, they have been made accused as an associates of co-accused Sriman Kumar Singh. No overt act has been alleged against these petitioners. It is submitted that the Juvenile Justice Board has conducted inquiry with regard to the age of these petitioners and vide order dated 29.08.2019 the petitioner no. 1 has been declared aged about 14 years 4 months and two days, whereas petitioner no. 2 has been declared aged between 15 ½ and 16 years. It is submitted that both the petitioners are thus juvenile, they are students and their parents are ready to give undertaking that if released on bail the parents would ensure that the petitioners continue with their study and do not fall in any bad company. It is also submitted that these petitioners have got no criminal antecedent.



Learned counsel further submits that as regards the petitioner no. 1, the Social Investigation Report would show that his family relationships are cordial, attitude and living conditions are also normal and attitude towards the classmates as per statement of Principal is said to be normal. His involvement in the present case may be because of bad peer group and no abnormality has been reported against him. The Social Investigation Report of petitioner no. 2 also shows that his attitude among his friends has been reported normal. He is studying in Class X in the Indian Public School, Gulabbagh, Purnea, his neighbours have also not reported anything wrong about him.

Learned counsel submits that the spirit of Section 12 of the Juvenile Justice Act, 2015 favours reunion of the juvenile with his family and the institutional custody should be the last option only in case where the best interest of the child does not permit his reunion with his family. The petitioners are said to be in the juvenile home/place of safety since 04.03.2019. It is thus his submission that in order to bring back juveniles in the



mainstream of the society they need to pursue their study and be re-united with their family.

Mr. Shailendra Kumar, learned A.P.P. for the State submits that he had perused the case diary earlier and had also gone through the Social Investigation Report of petitioner no. 1 which was received earlier. The report of petitioner no. 2 was received at a later stage. Learned A.P.P. submits that the Social Investigation Report of petitioner no. 1 shows that the juvenile is continuing with the study in Xth Class in Indian Public School and he needs to be brought to the mainstream of the society as on the date of occurrence he was only 14 years and 4 months old.

Having regard to the facts and circumstances of the case and the materials available on the record considering that both the petitioners are juvenile, within 16 years of age, they are alleged to be the associates of main accused Sriman Kumar Singh against whom the allegation is that of calling the deceased boy on the alleged date of occurrence and he has been found to be aged between 17 – 18 years and regarding him preliminary assessment has been done to try him as an adult in the Children's Court,



further that these two petitioners have got no criminal antecedent, they are school going students and about them the Social Investigation Reports do not indicate any abnormality in their behaviour and attitude, they have no criminal antecedent and that their parents are ready to furnish undertaking that if released on bail, the parents shall ensure that the petitioners shall continue with their study and do not fall in any bad company and they do not come in touch with any bad elements, considering the spirit of Section 12 of the Juvenile Justice (Care and Protection of Children) Act , 2015 which is more in favour of a reunion of the juveniles with the family and the maximum term of sentence which may be awarded by Juvenile Justice Board, instead of further keeping them in an institutional care unit as the petitioners have already remained in the juvenile homes/place of safety for almost 1 ½ year, they may be released on bail. Let the impugned order be set-aside. The Revision Application is allowed. Petitioners are directed to be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of



learned Juvenile Justice Board, Purnea in connection with K. Hat P.S. Case No. 139 of 2019, one of the sureties would be the father of the juveniles. Both the parents of the juveniles shall furnish an undertaking that on release from the observation home the parents shall get the petitioners admitted in schools or the institutions as may be available for them and shall ensure that they continue with their study as also that the parents shall keep full vigil on the juveniles and they would also ensure that the juveniles/petitioners do not fall in any bad company and in case of any adverse development the same shall be reported to the Juvenile Justice Board, Purnea.

The Probation Officer shall keep on visiting the residence of the petitioners and submit his observations/report to the Juvenile Justice Board, Purnea periodically.

This application is, thus, allowed.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

