

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.71 of 2020

Arising Out of PS. Case No.-541 Year-2018 Thana- BARACHATTI District- Gaya

VIKRAM PASWAN @ VIKRAM KUMAR though his father and natural guardian, namely, Surendra Paswan Resident of Village-Diwariya, P.S.- Barachatti, District-Gaya.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate.
For the Respondent/s : Mr. Tapeswar Sharma, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 27-05-2020 This case has been posted before me for hearing through video-conferencing, under the orders of Hon'ble the Chief Justice, in view of Nation passing through lockdown as an aftermath of the outbreak of COVID-19 pandemic.

Heard the parties.

This is an application under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015, challenging the order of lower appellate court dated 25.11.2019 passed in Cr. Appeal (Juvenile) No.77 of 2019 as well as the order dated 21.09.2019 passed by the Juvenile Justice Board, Gaya in Barachatti P.S. Case No.541 of 2018 (Misc. Case No.125/19) registered under Section 306 & 120 B/34 of the Indian Pena Code and, whereby both the Courts below refused



the prayer for bail to the petitioner.

The petitioner was declared juvenile by the Juvenile Justice Board and the order got finality.

The informant had gone to market for fetching medicine and after her return she told her daughter to cook meal. After sometime, a hulla was made that her daughter set in fire. When she reached near her daughter she found that she completely burnt. It is also stated that there was love affairs of her daughter with one Vikram Kumar and her daughter wanted to solemnized marriage with him but his relatives and Sarpanch were not agreed for the same. A rumour was arose that Vikram had taken poison and died and for that her daughter was in depression.

Learned counsel for the petitioner submits that there is no direct evidence against the petitioner and both the Courts below ignored the mandate of Juvenile Justice Act which requires that bail to a juvenile is a right and the refusal is an exception. The seriousness of the offence is no consideration for refusal of bail as required under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Moreover, without any material on record to substantiate that in the event of release, petitioner would go into association with unsocial



elements and would be exposed to moral, physical and psychological danger, the Courts below have refused the prayer on this ground. He further submits that the real fact of the matter is that the deceased had love affair with someone but her family members opposed the same and for that reason the deceased has committed suicide. Petitioner is innocent and has no concern with the aforesaid occurrence. Similarly situated co-accused persons, namely, Surendra Paswan, Satyanarayan Paswan and Vijay Paswan have been enlarged on anticipatory bail by a coordinate Bench of this Court vide order dated 10.04.2019 passed in Cr. Misc. No.22776 of 2019.

This Court had called for a report from the Probation Officer which is available on the record and no adverse reporting against him.

Since both the learned Courts below have committed error of record in coming to the conclusion that in the event of release, petitioner would go into association with some known criminals or would be exposed to moral, psychological and otherwise danger without any material to substantiate the same, hence both the orders are fit to be set aside.

Considering the totality of the facts and the circumstances as discussed above, this application is allowed



and the aforesaid orders dated 25.11.2019 and 21.09.2019 are set aside.

Let the petitioner, above named, be released at once on execution of bond by either of the parents of the petitioner giving undertaking that he/she shall keep proper care and upkeep of the petitioner and shall fully cooperate with the investigation/trial against the petitioner.

(Anjani Kumar Sharan, J.)

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