

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.122 of 2020

Arising Out of PS. Case No.-225 Year-2019 Thana- SAHEBPUR KAMAL District-
Begusarai

=====

SUSHIL KUMAR Son of Buddhan Paswan Through his mother as Guardian
Namely Sabita Devi @ Savita Devi, Resident of Village - Panchveer, Ward
No.7, P.S.Sahebpur Kamal, Dist.- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Sandip Kumar Gautam, Adv.

For the Respondent/s : Mr. Dr. Kumar Uday Pratap, APP.

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA
ORAL ORDER

3 12-06-2020 Heard learned counsel for the petitioner as well
learned counsel for the State through video
conferencing.

At the very outset learned counsel appearing for
the petitioner submits that due to typing error in 7th line
of paragraph 1 of the petition in place of 14.01.2020 it
has inadvertently been typed as 13.01.2017. Therefore,
in the aforesaid line in place of 13.01.2017 it be read as
14.01.2020.

This revision Petition has been preferred against
the order dated 14.01.2020 passed by Learned First
Additional Sessions Judge, Begusarai in Criminal Appeal
No. 153 of 2019 by which and whereunder he dismissed
the aforesaid appeal confirming the order dated



12.12.2019 (wrongly mentioned in first paragraph of impugned judgment as 16.07.2019) passed by Principal Magistrate, Juvenile Justice Board, Begusarai in S. Kamal P.S. Case No. 225 of 2019 by which and whereunder Principal Magistrate, Juvenile Justice Board, Begusarai rejected the bail prayer of the petitioner.

The record goes to show that on 18.07.2019, S. Kamal P.S. Case No. 225 of 2019 was registered against unknown for the offence punishable under Section 302, 201/34 of the Indian Penal Code. Furthermore, it would appear from perusal of the record that the name of appellant surfaced in this case in course of investigation and it came to light that one married lady had illicit relation with co-accused Babjan Kumar and the father of said lady saw the aforesaid Babjan Kumar with his daughter in objectionable position which gave apprehension to that married lady and thereafter she having entered into conspiracy with above stated Babjan Kumar and, allegedly, with this petitioner got eliminated her father. Moreover, it is informed that in course of investigation, one Rishi Kumar claimed himself to be an eye-witness of the alleged occurrence and he got recorded his statement under Section 164 of the Cr.P.C.

The petitioner was arrested in connection with the



aforesaid case and he was sent to judicial custody. The petitioner claimed himself juvenile and he was declared juvenile on 15.11.2019 by a competent board. Petitioner approached the Juvenile Justice Board for grant of bail but his bail prayer was rejected by Principal Magistrate, Juvenile Justice Board vide order dated 12.12.2019 against which petitioner preferred Criminal Appeal No. 153 of 2019 which, too, dismissed by the Appellate Court on the ground that the release of the appellant will bring him into the association of bad elements.

Learned counsel appearing for the petitioner submits that the learned Principal Magistrate as well as learned First Additional Sessions Judge, Begusarai committed error in recording the finding that the release of the appellant would bring him into the association of bad elements because Probationary Officer did not report any previous antecedent of the petitioner and admittedly, petitioner was aged about 15 years at the time of alleged occurrence. He further submits that even if prosecution story assumed to be true, then also, it has come that it was co-accused who committed murder of the deceased and so far as petitioner is concerned, he only facilitated the co-accused by catching the hands of the deceased.

Learned counsel for the petitioner further submits



that the mother of the petitioner has filed affidavit to this effect that she will keep strict vigil over the activities of the petitioner and she will take proper care of the petitioner so that petitioner could not go into the association of bad elements.

On the other hand, learned Additional Public Prosecutor appearing for State supports the impugned judgment passed by learned Additional Sessions Judge Ist Begusarai submitting that local Sarpanch sent report to the Trial Court highlighting this fact that this petitioner was involved in committing the murder of the deceased. Therefore the petitioner should not be released on bail.

Having heard the contentions of both the parties I went through the record. The perusal of the record goes to show that the learned Principal Magistrate, Juvenile Justice Board, Begusarai as well as learned Additional Session Judge Begusarai formed their opinion about the petitioner on the basis of report submitted by Sarpanch as well as Probationary Officer. Admittedly, the local Sarpanch is not an eye-witness of the alleged occurrence and she has reported the heresay facts as she had herself not seen the actual killing of the deceased and therefore, the opinion of the Sarpanch is based on the heresay evidence. Furthermore, the Probationary Officer



did not find any previous antecedent of the petitioner and the Probationary Officer has, nowhere, mentioned in his report that the release of the petitioner would bring him into the association of known criminals. Moreover, the mother of the petitioner is ready to keep strict vigil over the activities of the petitioner and she will ensure that the petitioner will not go into the association of known criminals or in the association of the bad elements. Therefore, in my view the impugned order dated 14.01.2020 passed by learned First Additional Sessions Judge, Begusarai cannot sustain in the eye of law.

On the basis of aforesaid discussions, this Criminal Revision is allowed and the impugned order dated 14.01.2020 passed by learned First Additional Sessions Judge, Begusarai in Criminal Appeal No. 153 of 2019 is, hereby, set aside and accordingly, it is ordered that petitioner be released on bail on furnishing bail bonds of Rs 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Principal Magistrate, Juvenile Justice Board, Begusarai in connection with Sahebpur Kamal P.S. Case No. 225 of 2019, subject to condition that the mother of the petitioner shall swear an affidavit before the Juvenile Justice Board Begusarai to this effect that she will keep



strict vigil over the activities of the petitioner and she will immediately report to Juvenile Justice Board Begusarai, if the activity of petitioner is found suspicious.

In the aforesaid manner, this Criminal Revision stands disposed of.

(Hemant Kumar Srivastava, J)

GAURAV S./-

U		T	
---	--	---	--

