

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.148 of 2020

Arising Out of PS. Case No.-62 Year-2019 Thana- LAHERIMUHALLA District- Nalanda

Md. Sabir @ Md. Sabbir @ Md. Shabbir @ Sabre, aged about 17 years,
Gender-Male, Son of Late Md. Abdul Kalam, Resident of Mohalla - Pulpar
Alamganj, P.S.- Laheri, District- Nalanda, under the guardianship of his
mother namely Nusrat Ara wife of Late Md. Abdul Kalam @ Late Md. Kalam

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Syed Asgher Najmi- Advocate
For the State	:	Mr. Surendra Prasad Singh- A.P.P.
For the Informant	:	Mr. Pramod Kumar Sinha- Advocate

**CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR
SRIVASTAVA**

ORAL ORDER

4 27-08-2020 Heard learned counsel appearing for the petitioner,

learned Additional Public Prosecutor appearing for the State as

well as learned counsel appearing for the informant through

video conferencing.

2. This revision petition has been preferred against the

order dated 10.12.2019 passed in Juvenile Appeal No.30 of

2019 by the learned 1st Additional Sessions Judge-cum-Special

Judge, Nalanda at Biharsharif by which and whereunder the

learned Additional Sessions Judge rejected the bail prayer of the

petitioner and confirmed the order dated 20.08.2019 passed by

the Juvenile Justice Board in connection with J.J.B. No.97 of

2019.



3. In my view, this revision petition can be disposed of on admission stage itself.

4. Laheri P. S. Case No.62 of 2019 under Sections 302, 120(B)/ 34 of the I.P.C. was registered against unknown criminals. However, in course of investigation, some co-accused were arrested and the name of this petitioner came in confessional statement of co-accused. In course of investigation, the Investigating Officer saw the footage of CCTV in presence of some witnesses and some of the witnesses claimed to have identified the petitioner.

5. Learned counsel appearing for the petitioner submits that one witness, namely, Arjun Malakar, whose statement was recorded at Para-73 of the case diary, claimed that he had seen the petitioner along with co-accused Md. Imran @ Mona near the house of co-accused Jitendra Kumar and subsequently, he saw co-accused Md. Imran @ Mona and Jitendra Kumar going towards the place of occurrence. Learned counsel for the petitioner submits that the aforesaid fact clearly goes to show that the deceased left his house in the company of co-accused Md. Imran @ Mona and when the deceased was leaving his house, the petitioner was not with him. He further submits that petitioner does not have any criminal antecedent,



but the learned Additional Sessions Judge, only on the basis of presumption, gave this finding that the release of the petitioner would bring him into association of known criminals. He further submits that the social investigation report is based only on surmises and conjectures and no specific averment has been made to show that the release of petitioner would bring him into the association of known criminals.

6. On the other hand, learned counsel appearing for the informant opposed the prayer submitting that in course of investigation, some of the prosecution witnesses claimed to have identified the petitioner after seeing the CCTV footage. He further points out that the bail prayer of co-accused Mohmad Altamash has already been rejected and this case is on the verge of disposal.

7. Having heard the rival contentions of the parties, I went through the record. It is an admitted position that petitioner was Juvenile at the time of alleged occurrence. Furthermore, it is also an admitted position that the petitioner is languishing in jail custody since 14.02.2019. The social investigation report shows that the release of the petitioner would bring him into the association of known criminals. However, in my view, the aforesaid report is not sufficient to detain the petitioner in jail



custody. The word 'known criminals' has significant meaning. The social investigation team was duty bound to disclose the name of those known criminals in whose association the petitioner may go and, furthermore, I am of the opinion that only on the basis of vague opinion of the social investigation team, the petitioner cannot be detained.

8. So far as the materials collected in course of investigation against the petitioner are concerned, one witness, namely, Arjun Malakar, whose statement was recorded at Para-73 of the case diary, specifically stated that when deceased left his house, he was in company of other accused and the petitioner was not with them.

9. Considering the aforesaid facts and circumstances of the case as well as submissions of the parties, in my view, this revision petition does have merit and, accordingly, this revision petition is allowed and the impugned order dated 10.12.2019 passed by the learned Additional Sessions Judge-1st-cum-Special Judge, Nalanda at Biharsharif in Juvenile Appeal No.30 of 2019 is, hereby, set aside. Accordingly, it is ordered that the 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 the concerned Court, subject to



condition that the mother of the petitioner shall file an affidavit before the trial Court to this effect that she shall keep vigil over the activities of the petitioner and if she finds any suspicious activity of the petitioner, she shall immediately inform the trial Court about the suspicious activity of the petitioner and the Court concerned after gathering the information must pass order in accordance with law.

10. In the aforesaid manner, this revision petition stands disposed of on admission stage itself.

(Hemant Kumar Srivastava, J)

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