

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.341 of 2020

Arising Out of PS. Case No.-243 Year-2018 Thana- DARAUNDA District- Siwan

=====

MONU SINGH @ MANU SINGH @ ABHIMANYU SINGH @
ABHIMANYU KUMAR SINGH Son of Ravindra Singh Resident of Village
- Bakhari, P.S.- M.H. Nagar, District - Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party

=====

Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar, Advocate
For the Respondent/s : Mrs. Anita Kumari Singh, A.P.P.

=====

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 23-09-2020 1. Heard Mr. Ranjeet Kumar, learned counsel for the
petitioner and Mrs. Anita Kumari Singh, learned A.P.P.
appearing for the State through video conferencing.

2. This Criminal Revision application has been filed
against the judgment and order dated 31.01.2020 passed by
learned 1st Additional District & Sessions Judge- cum- Special
Judge , Siwan in Cr. Appeal (Juvenile) No. 77 of 2019 arising
out of the order dated 01.10.2019 passed in Trial No. 65 of 2019
by learned Juvenile Justice Board, Siwan in connection with
G.R. Case No. 6938 of 2018 arising out of Darunda P.S. Case
No. 243 of 2018 registered for the offence punishable under
Section 386 of the I.P.C. By the impugned order and judgment
the learned Special Judge, Siwan has refused to release the



revisionist – petitioner herein on bail.

3. The allegation against the petitioner as per the First Information Report lodged by one Nuren Raja stating therein that he is presently working as Deputy Project Manager at Kamla Aditya Construction Pvt. Limited and at about 11.30 A.M. on 28.11.2018 some unknown criminals arrived on motorcycles and asked regarding the where about of the Project Manager / Site In-charge threatening the employees and labourers, upon which, the employees informed that Project Manager used to stay at Darunda Plant. It has further been alleged that at 1.00 P.M. the accused persons reached at the camp office situated at Darunda Gandak Colony and assaulted the employees on the point of gun and asked to inform the company to give Rs. 20 Lakhs as ransom and also threatened that if they want to work in this area they would have to pay Rs. 20 Lakh as rangdari (ransom).

4. Learned counsel for the petitioner submits that the petitioner was declared juvenile by order dated 07.01.2019 passed by the learned Juvenile Justice Board after coming to the conclusion that the petitioner was minor at the time of alleged occurrence and was aged about 17 years 09 months 27 days. Learned counsel further submits that before the Juvenile Justice



Board the mother of the petitioner had appeared and gave undertaking that she would take care of the petitioner in future and would see that he does not repeat the offence, but the learned trial court i.e. Juvenile Justice Board refused to release the petitioner on bail. Learned counsel further submits that before the Juvenile Justice Board social investigation report was called for in which the investigating authority had clearly mentioned that mother has disclosed that though her son i.e. petitioner was having criminal antecedent but one chance may be given to him to reform himself. Learned counsel further submits that against the order passed by Juvenile Justice Board refusing the bail application, the petitioner preferred an appeal being Cr. Appeal (Juvenile) No. 77 of 2019 before the learned 1st Additional District and Sessions Judge -cum- Special Judge, Siwan who by the impugned judgment and order arrived at erroneous conclusion that social investigation report prepared by the investigating authority was mechanical in manner and since the petitioner has got criminal antecedent, as such release of petitioner on bail will defeat the ends of justice. Learned counsel for the petitioner relies upon Section 3 (i), (iv), (v) & (xiv) of the Juvenile Justice (Care and Protection of Children) Act, 2015 {hereinafter referred to as “the Act”} which are



quoted hereinbelow as follows:-

*“(i) **Principle of presumption of innocence:-** Any child shall be presumed to be an innocent of any mala fide or criminal intent up to the age of eighteen years.*

*(iv) **Principle of best interest:-** All decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop full potential.*

*(v) **Principle of family responsibility:-** The primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents, as the case may be.*

*(xiv) **Principle of fresh start:-** All past records of any child under the Juvenile Justice system should be erased except in special circumstances”*

5. Learned counsel referring to above mentioned provisions submits that as per the scheme of the Act there is **presumption of innocence** of a child in conflict with law and all decisions regarding the child shall be taken in consonance with the **principle of best interest** of the child. Learned counsel further submits that the **principle of family responsibility** and **principle of fresh start** have also been recognized under the



Act. Learned counsel further relied upon Section 12 of the Act, which is quoted as follows:-

“12. Bail to a person who is apparently a child alleged to be in conflict with law.- (1) *When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a probation officer or under the care of any fit person:*

Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person's release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.

(2) *When such person having been apprehended is not released on bail under subsection (1) by the officer - in-charge of*



the police station, such officer shall cause the person to be kept only in an observation home in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.

(4) When a child in conflict with law is unable to fulfil the conditions of bail order within seven days of the bail order, such child shall be produced before the Board for modification of the conditions of bail.”

6. In reference to Section 12 of the Act learned counsel submits that bail to a child in conflict with law is a rule and denial is exception.

7. Learned counsel in the aforesaid background submits that the learned court below has failed to consider the scheme of the Act and has committed material irregularity in arriving at the conclusion that since the petitioner has criminal antecedent as such, release of petitioner on bail will amount to defeating the ends of justice.



8. This court by order dated 12.06.2020 had called for the social background report and social investigation report of the petitioner in the matter, which are on record. From perusal of the report it appears that the Investigating Officer upon detailed enquiry has come to the conclusion that the petitioner had fallen into bad company and the mother of the petitioner has assured that if one chance is given to the petitioner, she would try to keep him away from bad company and would try to bring change in his behavior.

9. On the other hand, learned counsel for the State submits that from perusal of Section 12 of the Act it appears that bail is a matter of right to the petitioner and denial is exception and in view of the fact that mother has given undertaking to reform her child i.e. petitioner, this court may consider to release the petitioner on bail in the best interest of the child.

10. From perusal of the record it appears that petitioner has remained in custody since 11.02.2019.

11. Having regard to the submissions made by the parties, on perusal of the impugned order and judgment and taking into consideration the social background report and social investigation report, I am of the considered opinion that the learned court below has committed material irregularity in



arriving at the conclusion that grant of bail to the petitioner will amount to defeating the ends of justice.

12. Accordingly, the judgment and order dated 31.01.2020 and 01.10.2019 respectively passed in Cr. Appeal (Juvenile) No. 77 of 2019 and Trial No. 65 of 2019 by learned 1st Additional District and Sessions Judge – cum- Special Judge, Siwan and learned Juvenile Justice Board, Siwan are hereby set aside and the petitioner is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Siwan / court concerned in connection with G.R. Case No. 6938 of 2018 arising out of Darunda P.S. Case No. 243 of 2018 on the following condition:-

(i) that one of the bailors shall be the mother of the petitioner.

(Anil Kumar Sinha, J)

praful/-

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

