

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.629 of 2019

Arising Out of PS. Case No.-561 Year-2018 Thana- GOPALGANJ TOWN District-
Gopalganj

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CHANDAN KUMAR, aged about 17 years (Male), Son of Balister Sah,
through his father as natural Guardian, resident of Village - Arna Bazar, P.S.-
Uchakagaon, District- Gopalganj.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Petitioner : Mr. Dr. Amrendra Kumar and Mr. Suresh Prasad
Bhakta, Advocates.

For the Respondent : Mr.Nawal Kishore Pd.(App)

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

4 22-05-2020 Due to COVID-19 Pandemic, the matter is being
taken up by way of virtual Court proceeding.

The matter has been listed under the heading ‘For
Orders’ under the orders of Hon’ble the Chief Justice.

Heard learned counsel for the petitioner and learned
counsel for the State.

This Criminal Revision has been preferred against the
order dated 12.04.2019, passed by learned Sessions Judge,
Gopalganj in Criminal Appeal No. 36 of 2019, whereby and
whereunder learned Sessions Judge, Gopalganj, has upheld the
order dated 25.03.2019, passed by learned Principal Magistrate,
Juvenile Justice Board, Gopalganj in J.E. No. 154 of 2018,



arising out of Gopalganj Town P.S. Case No. 561 of 2018, whereby learned Principal Magistrate, Juvenile Justice Board, Gopalganj, has rejected the prayer for bail of the petitioner in connection with Gopalganj Town P.S. Case No. 561 of 2018, registered under Section 413/34 of the I.P.C.

The prosecution story, in brief, is that on 24.09.2018, the informant alongwith other police party was going to raid against the warrantees and in that course, he received a secret information at Ambedkar Chowk at 6.30 P.M. and accordingly, they arrived at Blood Bank in the premises of Sadar Hospital, Gopalganj for necessary action and found that miscreants who were sitting on Motorcycle, started their Motorcycle and began to flee away having seen the police, but they were apprehended by the police force, but one of them succeeded in fleeing away by Motorcycle. On being interrogation, the apprehended persons disclosed their identity as accused Masoom Ali and a Glamour Motorcycle bearing Registration No. BR-28/4948 was recovered from his possession. Yamha Motorcycle bearing Registration No. UP-53J/0539 was recovered from the possession of appellant Chandan Kumar. A Discover Motorcycle bearing Registration No. BR-28G/2436 was recovered from the possession of Imteyaz Ali. On demand of papers of Motorcycle,



the apprehended miscreants did not produce any paper, but they disclosed that the person, who succeeded in fleeing away, was accused Bhola Sah and was also possessing the stolen Hero Splender Motorcyle. Thereafter, separate seizure list as per recovery was prepared and a copy thereof, was handed over to the each miscreant and all the four miscreants were made accused in this case in the allegation of keeping stolen Motorcycle and dealing with the stolen property.

It has been submitted by learned counsel for the petitioner that the petitioner is languishing in custody since 25.09.2018. The petitioner has got no criminal antecedent. Charge sheet has been submitted in the present case. There is no allegation of tampering with the witnesses alleged against the petitioner. The petitioner has got no concern with the seized Motorcycle. There is no compliance of Section 100 of Cr. P.C.

The report of the Probation Officer is that the mental condition of the petitioner was found normal. The petitioner studied up to V Standard. In the social investigation report, it is also suggested that the benefit of Juvenile Justice can be given to the petitioner. Further the report of the Probation Officer does not reveal that there is material to substantiate that the petitioner lacks proper parental care nor there is any conclusive finding by



the Probation Officer that in the event of grant of bail the petitioner is likely to go into association of known criminals.

The law requires that reasonable grounds should be there for believing that in the event of grant of bail the petitioner would go into association of any “known criminal” or exposed to moral, physical and psychological danger or the release of the person would defeat the ends of justice. There is no reference of any known criminal nor there is any other substantive material for the conclusion as recorded by the court below.

Hence, the impugned order suffers from failure to exercise jurisdiction vested in law, is result of error apparent on the face of the record and non-consideration of provisions of law. Accordingly, this Criminal Revision application is allowed and the order dated 12.04.2019, passed by learned Sessions Judge, Gopalganj in Criminal Appeal No. 36 of 2019 and the order dated 25.03.2019, passed by learned Principal Magistrate, Juvenile Justice Board, Gopalganj in J.E. No. 154 of 2018, arising out of Gopalganj Town P.S. Case No. 561 of 2018, are set aside.

Let the petitioner, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of either of his parents on execution of surety bond of



Rs. 5,000/- (Five Thousand) to the satisfaction of learned Principal Magistrate, Juvenile Justice Board, Gopalganj in connection with J.E. No. 154 of 2018, arising out of Gopalganj Town P.S. Case No. 561 of 2018, with the condition that the petitioner will be produced as and when required by the Juvenile Justice Board for co-operation of his enquiry.

(Sudhir Singh, J)

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