

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1370 of 2019

Arising Out of PS. Case No.-329 Year-2018 Thana- DAUDNAGAR District- Aurangabad

1. MANISH KUMAR S/O Mithalesh Yadav Under Guardianship of Mithalesh Yadav, S/O Bandhu Singh, resident of Village- Bhakharua More, P.S.- Daudnagar, District- Aurangabad.
2. Sujit Kumar @ Bala S/O Suresh Yadav, Under the Guardian of Suresh Yadav, S/O Chhedi Singh, resident of Village- Bhakharua More, P.S.- Daudnagar, District- Aurangabad.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Ram Sewak Prasad
For the Respondent/s	:	Mr.Navin Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 21-01-2020 Heard learned counsel for the petitioners, learned counsel for the informant and learned counsel for the State.

This Criminal Revision petition has been preferred against the order dated 05.04.2019, passed by the learned 1st Additional Sessions Judge cum Spl. Judge POCSO, Aurangabad in Criminal Appeal No. 14/2019, whereby and whereunder learned 1st Additional Sessions Judge cum Spl. Judge POCSO, Aurangabad, has upheld the order dated 19.02.2019, passed by the learned Juvenile Justice Board, Aurangabad in Juvenile Justice Board Case No. 766 of 2018, arising out of Daudnagar P.S. Case No. 329 of 2018, whereby learned Juvenile Justice



Board, Aurangabad, has rejected the prayer of the petitioner for grant of bail in connection with Daudnagar P.S. Case No. 329 of 2018, registered under Sections 302 and 201/34 of the I.P.C.

The prosecution story, in brief, is that the informant Pushpa Kumari was/is serving as Grade Nurse at Arwal Hospital. Her mother Jaimanti Devi alias Jaya Upadhyia was living with Jai Kishan alias Kannu, adopted son of her husband. The said Jaimanti Devi became traceless since 12.09.2018. When the informant asked from Jai Kishan alias Kannu about her mother, Kannu said that her mother had gone to Haridwar and she would return by 24/25.09.2018, but when Jaimanti Devi did not return even by the fixed date expected, suspicion arose. The informant had then put pressure on Jaikishan alias Kannu, who disclosed that he alongwith his friends, namely, Manish Kumar (petitioner no.1), Bala @ Sujit Kumar (petitioner no.2) alongwith Prakash Kumar had committed the murder of her mother in the night of 12.09.2018 at midnight by way of gagging her mouth and her dead body was buried near Gobardhan Mountain.

It has been submitted by learned counsel for the petitioners that the petitioners are languishing in custody since 27.09.2018. The petitioners have got no criminal antecedent. Charge sheet



has been submitted in the present case. The name of the petitioners has come in the present case on confession of co-accused. Except for this, there is no substantive evidence to suggest the implication of the petitioners in the present case. There is no eye witness to the alleged occurrence. It is further submitted that other co-accused person, namely, Prakash Kumar, has already been granted bail by a co-ordinate Bench of this Court vide order dated 19.09.2019 passed in Cr. Rev. No. 216 of 2019.

The report of the Probation Officer shows that the mental condition of the petitioners have been found to be normal. The petitioners are ordinary into studies. In the report, it is also suggested that the benefit of Juvenile Justice Act can be given to the petitioners. Further the report of the Probation Officer does not reveal that there is material to substantiate that the petitioners lack proper parental care nor there is any conclusive finding of the Probation Officer that in the event of grant of bail to the petitioners, they are likely to come 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 petitioners would not come in association of any “known criminal” nor



would they be exposed to moral, physical and psychological danger or their release would not defeat the ends of justice. There is no reference of any known criminal nor there is any other substantial material for the conclusion as recorded by the court below.

Hence, the impugned order suffers from failure to exercise jurisdiction vested in law, in result there is error apparent on the face of the record and same depicts non-consideration of the provisions of law. Accordingly, this Criminal Revision is allowed and the order dated 05.04.2019, passed by learned 1st Additional Sessions Judge-cum- Spl. Judge, POCSO, Aurangabad in Criminal Appeal No. 14/2019 as well as the order dated 19.02.2019, passed by learned Juvenile Justice Board, Aurangabad in J.J.B. Case No. 766/18 arising out of Daudnagar P.S. Case No. 329 of 2018, are set aside.

Consequently, the petitioners herein are directed to be released from the Remand Home on his furnishing bail bond of Rs. 10,000/- (Rs. Ten Thousand) each with two sureties of like amount each to the satisfaction of learned Juvenile Justice Board, Aurangabad in J.J.B. Case No. 766 of 2018, arising out of Daudnagar P.S. Case No. 329 of 2018, subject to the condition that :-



One of the bailors of the petitioners shall be his father/ mother who at the time of filing of the bonds, shall also give an undertaking that he/ she will take good care of the petitioners and in case, petitioners do not act as per his/ her advice, he/ she shall report the matter to the officer-in-charge of the concerned police station and further during period of bail, the petitioners will be under the supervision of concerned Probation Officer.

This revision application stands allowed on the aforesaid terms.

(Mohit Kumar Shah, J)

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