

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.1567 of 2019**

Arising Out of PS. Case No.-229 Year-2019 Thana- PANCHRUKHI District- Siwan

RANJAN KUMAR YADAV Son of Prabhu Yadav @ Prabhunath Yadav
Resident of Village- Mahpur, P.S.- Sarai, O.P., District- Siwan, Under
Guardian- Ship and natural guardian- Ship and Representative of his mother
namely Indu Devi aged about 45 Years, Gender- Female, W/o Prabhu Yadav
@ Prabhunath Yadav, Resident of Village- Tarwara Road, Mahpur, P.S.- Sarai
O.P., District- Siwan.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner/s : Mr.Bijay Prakash Singh, Advocate
For the Respondent/s : Mr.Amitesh Kumar, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

6 13-11-2020 Heard learned counsel for the petitioner and Mr.
Amitesh Kumar, learned APP for the State.

The petitioner in the present case is challenging the
order dated 21.11.2019 passed in Cr. Appeal No. 63 of 2019 by
learned 1st Additional District and Sessions Judge, Siwan in
connection with G.R. No. 3514 of 2019 arising out of Pachrukhi
P.S. Case No. 229 of 2019 corresponding to G.E. Case No. 265
of 2019 registered under Sections 302, 120(B), 34 of the Indian
Penal Code and Section 27 of the Arms Act whereby prayer for
bail rejected by learned Principal Member, Juvenile Justice
Board, Siwan has been affirmed.

Learned counsel for the petitioner has drawn the



attention of this Court towards Annexure '2' which is the order dated 14.10.2019 passed by learned Juvenile Justice Board, Siwan in J. E. No. 265 of 2019. On the basis of the matriculation certificate of the petitioner it has been found that on the alleged dated of occurrence i.e. 01.09.2020 he was 15 years 8 months old. His date of birth being 01.01.2004, learned counsel submits that the petitioner is a juvenile and as such his prayer for setting aside of the impugned order and release on bail be considered keeping in view the spirit of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as 'the Act of 2015').

Learned counsel then submits that from the First Information Report it will appear that co-accused Kalicharan had threatened the deceased and he was given supari by one Balister Mehto @ Bolder to kill the son of the informant.

Learned counsel submits that the informant is not an eye-witness to the alleged occurrence, however, he has vaguely stated in the FIR that while his son was going to see the Mahaviri Mela by a motorcycle together with two more persons namely Jhaman Khushwaha and Aman Kumar Khushwaha, as soon as they reached near Matuk Chapra main road, from behind a white colour Apache motorcycle came on which two



persons co-accused Kalicharan and this petitioner were there and they committed murder of the son of the informant.

Learned counsel submits that this petitioner has got no criminal antecedent. In course of investigation police has found that the son of the informant was providing information to police against Balister Yadav @ Bolder Yadav and some other persons who were involved in the sale of liquor. Said Balister Yadav was arrested by police and it is for this reason that Kalicharan and this petitioner who were also involved in the business of illicit liquor killed the son of the informant. It is submitted that there is no case against this petitioner under the provisions of the Bihar Prohibition and Excise Act, 2016 and as such there is no basis to say that this petitioner was involved in sale of illicit liquor with the co-accused.

Learned counsel further submits that in the entire investigation not a single eye-witness has come to say that this petitioner had fired on the deceased. It is further submitted that in the social investigation report it has come that the mother of the petitioner is suffering from some illness and his father who is running a shop was engaged in the treatment of his wife and in this connection he was visiting Patna often, during this time the petitioner was going to the medicine shop of local mukhiya



and for this reason the name of the petitioner has been involved in the present case.

It is submitted that the petitioner has remained in remand home for 14 months and there being no criminal antecedent of the petitioner, the petitioner may be allowed to reunite with family keeping in view the spirit of Section 12 the Act of 2015. Reunion with the family of a juvenile is a rule of law and institutional custody of the petitioner is not desirable and his father is ready to give an undertaking that if released on bail he will take care of the petitioner and will not allow him to fall in any bad company. The Probation Officer has recorded that there was no complaint against his behaviour in the society.

Learned APP for the State has though opposed the prayer for regular bail of the petitioner, however, in course of his submission he has submitted that in course of investigation no witness has come to say that this petitioner was seen committing any overt act. It is also an admitted position that the petitioner has no criminal antecedent.

Having regard to the facts and circumstances of the case and the materials noticed hereinabove particularly that there is no eye witness to the alleged occurrence saying that the petitioner had committed any overt act, the petitioner is a



juvenile, there is no criminal history of the petitioner and he has already remained in remand home for 14 months and his father is ready to give an undertaking that if released on bail he will not allow the petitioner to come in contact with any bad element, keeping in view the spirit of Section 12 of the Act of 2015, this Court finds that the interest of the juvenile does not demand his continuous stay in the remand home, the impugned order is hereby set-aside.

Let the petitioner above named be released on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Siwan in connection with G.R. No. 3514 of 2019 arising out of Pachrukhi P.S. Case No. 229 of 019 corresponding to J.E. Case No. 265 of 2019, subject to the condition that the father of the petitioner will be one of the sureties.

The Probation Officer attached to the Juvenile Justice Board, Siwan shall visit the place of the petitioner from time to time and shall submit periodical report in this respect and in case the petitioner is found involved in any offence, the same will be brought to the notice of the jurisdictional police station.

The father for the petitioner shall give an undertaking



that after release of the petitioner on bail, he would ensure that
the petitioner does not fall in any bad company

The application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

