

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1533 of 2019

Arising Out of PS. Case No.-47 Year-2019 Thana- SONBERSA District- Sitamarhi

SAMARJEET KUMAR @ SAMARJEET YADAV @ SARVAJEET @ SAMARJIT YADAV @ SARVJIIT YADAV Son of Kalevar Ray @ Kaleshwar Ray Resident of Village-Harsingpur, P.S.-Bathnaha, District-Sitamarhi. Under Guardianship of his mother Jay Mala Devi aged about 46 years (Female) Wife of Kalevar Ray @ Kaleshwar Ray, Resident of Village-Harsingpur, P.S.-Bathnaha, District-Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Virendra Kumar
For the Respondent/s : Mr.Ajit Kumar

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 21-01-2020 Heard the parties.

The present petition has been filed against the order dated 01.10.2019, passed by the 1st Additional Sessions Judge-cum-Special judge (Children Court), Sitamarhi in Cr. Appeal no. 52 of 2019/ 22 of 2019 as also against the order dated 26.07.2019, passed by the Juvenile Justice Board, Sitamarhi in connection with Juvenile Justice Board Trial no. 898 of 2019 arising out of Sonbarsa PS case no. 47 of 2019, registered under Section 307 of Indian Penal Code and Section 27 of Arms Act, whereby and whereunder the prayer of the petitioner for grant of bail has been rejected.

The brief facts of the case are that some unknown



miscreants had come on a motorcycle to the gas agency of the informant and had fired indiscriminately with the intention to kill the informant and thereafter, they had fled away.

The learned counsel for the petitioner has submitted that the petitioner has been falsely implicated in the present case merely on the basis of the confessional statement made by the co-accused person, however neither any T.I. parade has been conducted so as to connect the petitioner with the alleged crime nor any incriminating articles/ arms have been recovered from the possession of the petitioner. It is further submitted that the police has unscrupulously made the petitioner an accused in five other cases, however he is on bail in four of the said cases. Lastly, it is submitted that the parents of the petitioner are willing to furnish an undertaking to the effect that they would ensure that the petitioner is kept in good social environment and does not come in contact with bad elements as also proper care is given to him so as to ensure proper upbringing of the petitioner, who is stated to be about thirteen and half years of age. It is further submitted that the petitioner is languishing in remand home since 20.05.2019.

I have heard the learned counsel for the parties and perused the materials on record, from which it is apparent that



no test identification parade has been conducted so as to connect the petitioner with the alleged crime nor any incriminating articles/ arms have been recovered from the possession of the petitioner. It is further apparent that the petitioner has been made an accused on the basis of the confessional statement of the co-accused persons and is languishing in custody/ observation home, Muzaffarpur from 20.05.2019. The petitioner has been declared to be a child in conflict with law on 23.07.2019 being aged 13 years, 04 months and 27 days, by the Juvenile Justice Board, Sitamarhi. This Court further finds from a bare perusal of ***Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015*** that a child in conflict with law is required to be released on bail ordinarily, except in case, it appears that there are requisite grounds to believe that the release of the child in conflict with law is likely to bring him in association with any unknown criminal or expose him to moral, physical or psychological danger or would defeat the ends of justice, however in the present case, this Court does not find that any of such factors are present so as to impede the grant of bail to the petitioner herein. This Court further finds that the impugned orders dated 26.07.2019 and 01.10.2019 suffer from total non-consideration of the actual facts and circumstances of



this case, as discussed hereinabove in the preceding paragraphs, hence are based on incorrect appreciation of the facts as also law and moreover, the same suffer from apparent error on the very face of the same.

Considering the facts and circumstances of the case and the materials available on record as also taking into account the arguments advanced by the learned counsel for the petitioner coupled with the reasoning stated herein above in the preceding paragraphs, I deem it fit and proper to allow the present petition, consequently the order dated 01.10.2019, passed by the 1st Additional Sessions Judge-cum-Special Judge (Children Court), Sitamarhi in Cr. Appeal no. 52 of 2019/22 of 2019 as also the order dated 26.07.2019, passed by the Juvenile Justice Board, Sitamarhi in connection with Juvenile Justice Board Trial no. 898 of 2019, arising out of Sonbarsa PS case no. 47 of 2019, are set aside.

Accordingly, the petitioner herein is directed to be released from the remand home on his furnishing bail bond of Rs. 10,000/- (Rs. Ten Thousand) with two sureties of like amount each to the satisfaction of learned Principal Magistrate, Juvenile Justice Board, Sitamarhi in connection with Sonbarsa Town PS case no. 47 of 2019, subject to the condition that :-



One of the bailors of the petitioner 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 petitioner and in case, petitioner does 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 petitioner 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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