

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1520 of 2019

Arising Out of PS. Case No.-32 Year-2019 Thana- SONBERSA District- Sitamarhi

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Samarjeet Kumar @ Samarjeet Yadav @ Sarvajeet @ Samarjit Yadav @ Sarvjit Yadav, S/o Kalevar Ray @ Kaleshwar Ray, R/o 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, R/o village- Harsingpur, P.S. - Bathnaha, District - Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Virendra Kumar, Advocate Mr. Ashok Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Shyam Kumar Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 06-01-2020

Heard the parties.

2. This criminal revision, under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015, is against refusal of prayer for bail on 26.07.2019 by the Juvenile Justice Board, Sitamarhi in connection with Juvenile Justice Board Trial No. 897 of 2019 arising out of Sonbarsa P.S. Case No. 32 of 2019 registered under Sections 341, 323, 307, 506/34 of the Indian Penal Code as well as under Section 27 of the Arms Act.

3. According to FIR, three persons on a motorcycle, intercepted the informant and others, on the way and one person took out his pistol and fired at the informant causing injury at the



knee of the right leg. Out of three, two were identified including the assailant and they were Md. Rasul and Vijay Kumar. Third person was not identified and during investigation, it revealed that the petitioner was the third person.

4. Though no overt act is alleged against the petitioner in the FIR, the Juvenile Justice Board refused the prayer for bail on the ground that the petitioner is carrying criminal antecedent and his release would bring the petitioner in the company of criminal associates and the atmosphere out side the Remand Home is not conducive for the petitioner. Identical view was adopted by the appellate court in Cr. Appeal No. 50 of 2019/20 of 2019 while dismissing the appeal by the impugned order dated 01.10.2019.

5. Submission of learned counsel for the petitioner is that this is not a matter of preventive detention, rather a case of consideration of prayer for bail of a juvenile. If no overt act was alleged in the FIR against the petitioner, it was a good case for bail even for an adult accused. The petitioner is a juvenile declared by the Juvenile Justice Board and both the courts below have erred in not appreciating that bail to a juvenile, under the scheme of the Act, is a rule irrespective of the nature and seriousness of the allegation against the juvenile.

6. His further contention is that the finding of the Juvenile Justice Board as well as the Appellate Court that the



petitioner would go into association of the criminal associates is based on conjectures and surmises without any positive evidence on the record.

7. I find substance in the submission of learned counsel for the petitioner. There is no overt act alleged against the petitioner. There was no material before the Juvenile Justice Board or the lower appellate court that in the event of release, the petitioner would go in the association of known criminals. Only on the basis of criminal antecedents, the petitioner cannot be put under preventive detention. Hence, the impugned orders, passed by the Juvenile Justice Board and the lower Appellate Court, stand hereby set aside and this application is allowed.

8. Let the petitioner above named be released, at once, on furnishing surety bond by either of the parents of the petitioner to the effect that he/she would maintain proper upkeep the petitioner and shall fully cooperate in the inquiry before the Juvenile Justice Board.

(Birendra Kumar, J)

Kundan/-

AFR/NAFR	N.A.
CAV DATE	N.A.
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