

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL REVISION No.1525 of 2019

Arising Out of PS. Case No.-7 Year-2019 Thana- MEHUSH District- Sheikhpura

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HARI OM KUMAR @ GUDAR Son of Ramanandan Singh @ Taru Singh @ Ramanand Singh Resident of Village Mehus P.S. Mehus, District-Sheikhpura, the father of the petitioner is the natural guardian namely of Ramnandan Singh @ Taru Singh @ Ramanand Singh Son of late Ram Chandra Singh, Resident of Village Mehus P.S. Mehus, District Sheikhpura.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjanj, Advocate.

Mr. Ram Prawesh Kumar, Advocate.

For the Respondent/s : Mr. Aditya Narayan Singh No.1, APP

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN

ORAL ORDER

5 27-05-2020 This case has been posted before me for hearing through video- conferencing, under the orders of Hon'ble the Chief Justice, in view of Nation passing through lockdown as an aftermath of the outbreak of COVID-19 pandemic.

Heard the parties.

This is an application under Section 53 of the Juvenile Justice (Care and Protection of Children) Act, 2015, challenging the order of lower appellate court dated 20.11.2019 passed in Cr.



Appeal No.11 of 2019 as well as the order dated 17.10.2019 passed by the Juvenile Justice Board, Shiekhpora in G.R. Case No.568 of 2019, arising out of Mehus P.S. Case No. 7 of 2019 registered under Section 302/34 of the Indian Penal Code, whereby both the learned Courts below refused the prayer for bail to the petitioner.

The petitioner was declared juvenile by the Juvenile Justice Board and the order got finality.

While the nephew (Bhagina) of the informant had gone to take breakfast on a shop, the informant, who was at his stitching shop, heard that the son of Taru Singh (petitioner) in association of his 3-4 friends gave a knife blow on the abdomen of Dharmendra Sao and was escaping. After hearing the hue and cry, when he reached near his nephew he saw that blood was oozing from the abdomen and he narrated about the incident and then became unconscious. Thereafter, with the help of local people, he rushed his nephew to Sheikhpora hospital where during course of treatment he succumbed to his injury.

Learned counsel for the petitioner submits that during investigation a suspicion has been raised against the petitioner and others to be involved in the murder of the victim but there is no direct evidence against the petitioner. He further submits



that both the learned Courts below have ignored the mandate of Juvenile Justice Act which requires that bail to a juvenile is a right and the refusal is an exception. The seriousness of the offence is no consideration for refusal of bail as required under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Moreover, without any material on record to substantiate that in the event of release, petitioner would go into association with unsocial elements and would be exposed to moral, physical and psychological danger, the Courts below have refused the prayer on this ground.

This Court had called for a report from the Probation Officer which is available on the record and the same shows that petitioner is a student having no adverse reporting against him.

Since both the learned Courts below have committed error of record in coming to the conclusion that in the event of release, petitioner would go into association with some known criminals or would be exposed to moral, psychological and otherwise danger without any material to substantiate the same, hence both the orders are fit to be set aside.

Considering the totality of the facts and the circumstances as discussed above, this application is allowed and the aforesaid orders dated 20.11.2019 and 17.10.2019 are



set aside.

Let the petitioner, above named, be released at once on execution of bond by either of the parents of the petitioner giving undertaking that he/she shall keep proper care and upkeep of the petitioner and shall fully cooperate with the investigation/trial against the petitioner.

(Anjani Kumar Sharan, J)

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