

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.108 of 2021

Arising Out of PS. Case No.-442 Year-2019 Thana- TEGHRHA District- Begusarai

SONU KUMAR @ SONU SINGH Son of Shivpuran Singh Resident of Village - Nayagaon, P.S.- Nayagaon, District - Begusarai under natural guardianship of his mother Mithalesh Devi wife of Shivpuran Singh, Resident of Village - Nayagaon, P.S.- Nayagaon, District - Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shree Niwas Singh, Adv.

For the Respondent/s : Mr.Sanjay Kr. Singh, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 08-04-2021 Heard learned counsel for the petitioner and learned APP
for the State through virtual court proceeding.

Learned counsel for the petitioner undertakes to remove the defects, as pointed out by the office, within four weeks of resumption of normal court proceeding. In the eventuality of non-removal of defects within undertaken period, the office will place the matter before the Bench.

This is an application u/s 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015, challenging the order of lower appellate court dated 26.11.2020 passed in Cr. Appeal No.52/2020 arising out of J.J.B. Case No.78 of 2020, as well as order dated 14.08.2020 passed by the Juvenile Justice Board, Begusarai in connection with Teghra P.S. Case No.442/2019, registered under section 392 of the IPC.



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

Allegation against the petitioner is that he along with one other accused person, looted mobile phone, ATM Cards, etc. from the informant on gun point, when the informant was returning to his home.

Learned counsel for the petitioner submits that the petitioner is quite innocent, has committed no offence and has been falsely implicated in this case. The petitioner is not named in the FIR nor any suspicion has been raised against him. His name appeared in this case only on the basis of confessional statement of co-accused in Balia P.S. Case No.12/20. No incriminating article has been recovered from the conscious physical possession of the petitioner. It is further submitted that there is no direct evidence against the petitioner and both the Courts below 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 u/s 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 learned Courts below have refused the prayer on this ground. The petitioner is named in seven other criminal cases as mentioned in para-3 of the petition and is languishing in custody since 26.02.2020.

Since both the 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 circumstances as discussed above, this application is allowed and the aforesaid orders dated 26.11.2020 and 14.08.2020 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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