

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.142 of 2021

Arising Out of PS. Case No.-271 Year-2020 Thana- HUSSAINGANJ District- Siwan

=====

Anshu Kumar @ Anshu Kumar Kushwaha @ Anshu Kr. Kushwaha Son Of Mukesh Kushwaha @ Mukesh Kumar Kushwaha, R/o village- Tikari, Dhobi Tola, P.S.- Hussainganj, District- Siwan, Under Guardianship and Natural /Legal guardian of his father namely Mukesh Kushwaha @ Mukesh Kumar Kushwaha aged about 55 years, Gender- Male, Son Late Ram Ratan Bhagat, R/o village- Tikari, Dhobi Tola, P.S.- Hussainganj, District- Siwan

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Ashok Kumar, Advocate
For the Respondent/s : APP

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 16-03-2021 Heard learned counsel for the petitioner and the learned counsel appearing on behalf of the State.

2. The present revision application has been preferred against the judgment and order dated 16.12.2020 passed by Sri Akhilesh Kumar Jha, learned Juvenile Justice Cum 1st Additional Sessions Judge cum Special Judge, Siwan, passed in Cr. Appeal No.30 of 2020 in connection with J.E. Case No.203 of 2020, corresponding to G.R. Case No.1023 of 2020, arising out of Hussainganj P.S. Case No.271 of 2020 registered under Sections 272, 273 of the I.P.C and Sections 30(a), 41(1), 44(2) of the Bihar Prohibition and Excise Act, 2016, whereby and whereunder he has been pleased to dismiss



the appeal and affirmed the order dated 19.10.2020 passed by the Juvenile Justice Board, Siwan, by which the prayer for bail of the petitioner has been rejected.

3. The F.I.R. alleges that on a secret information that the petitioner and his father Mukesh Kumar Kushwaha and his mother Subhawati Devi were indulged in the business of illicit liquor in their house, the police raided the house. Seeing the police, the two persons tried to flee away, out of them petitioner was apprehended by the police and his father made good his escape. His mother also manage to escape. On search being made 31.500 litres illicit liquor was recovered from a plastic bag kept under the motorcycle without registration number and from the house of the petitioner altogether 1149.800 litres of illicit liquor has been recovered and seizure has also been made.

4. The petitioner's counsel submits that it is a case of false implication at the behest of local *Chaukidar* and the police. Nothing has been recovered from the petitioner's conscious possession. The alleged recovery is in contravention of the mandatory procedure of search and seizure prescribed under Section 100 Cr.P.C. The petitioner was declared a Juvenile by the Juvenile Justice Board, Siwan, vide order



12.10.2020. In view of the provisions contained in Section 12 of the J.J.Act, having regard to the age of the petitioner at the time of the alleged occurrence being 15 years 08 months 04 days, the petitioner is entitled to be released on bail. He is in custody in connection with the present case since 01.10.2020.

5. By way of supplementary affidavit, the uncle (*Phupha*) of the petitioner, with the consent of his parents, is ready and willing to give an undertaking regarding supervision and responsibility of the petitioner for his studies and bright future career.

6. Having considered all facts and circumstances, let the above named petitioner, a juvenile, be released on bail on his furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned learned Juvenile Justice Cum 1st Additional Sessions Judge cum Special Judge, Siwan, in connection with J.E. Case No.203 of 2020, corresponding to G.R. Case No.1023 of 2020 arising out of Hussainganj P.S. Case No.271 of 2020, in favour of his uncle (*Phupha*), who shall keep him under his guardianship and produce him as and when required and also subject to the condition that one of the bailors of the petitioner shall be his uncle (*Phupha*) who at the time of filing of the



bonds, shall also give an undertaking that he will take proper care of the petitioner and in case the petitioner does not act as per his advice, he shall report the matter to the Officer-in-Charge of the concerned police station and further during the period of bail, the petitioner will be under the supervision of concerned Probation Officer.

7. In the result, the revision application is allowed and the impugned orders dated 16.12.2020 and 19.10.2020 are set aside.

(Madhuresh Prasad, J)

PNM

U		T	
---	--	---	--

