

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.72 of 2021

Arising Out of PS. Case No.-147 Year-2020 Thana- KOTWA District- East Champaran

NITESH KUMAR Under the Guardianship of his father namely Surendra
Ray R/o village- Banparua, P.S.- Dumariagaht, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Priyesh Kumar

For the Respondent/s : Ms. Anita Kumari Singh

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 17-02-2021 Heard the learned counsel for the petitioner and
Ms. Anita Kumari Singh, the learned APP for the State.

The present petition has been filed against the order dated 26.06.2020, passed by the learned Juvenile Justice Board, East Champaran at Motihari in Kotwa PS case no. 147 of 2020 under Section 394 of Indian Penal Code, whereby and whereunder the prayer of the petitioner for grant of regular bail has been rejected as also for quashing the order dated 18.12.2020, passed by the learned court of 1st Additional Sessions Judge, East Champaran, Motihari in Cr. Appeal (Juvenile) No. 15 of 2020, whereby and whereunder the aforesaid order dated 26.06.2020 has been upheld.



The allegation levelled in the present case by the informant is that when he was travelling on his bike on the alleged date and time of occurrence, unknown miscreants had intercepted him and looted his mobile and bike, whereafter they had fled away.

The learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in the present case. The learned counsel for the petitioner has further submitted that no test identification parade has been held till date in order to connect the petitioner with the alleged crime. It is further submitted that the petitioner is a child in conflict with law and has been remanded in the present case on 20.05.2020 while he was arrested in one other case. It is further submitted that the petitioner is languishing in observation home since a long time.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail and has submitted that the petitioner is accused in three other cases as well.

Having regard to the facts and circumstances of the case, considering the submissions of the learned counsel



for the parties and taking into account the submissions made by the learned counsel for the petitioner as also considering the fact that no test identification parade has been held so as to connect the petitioner with the alleged crime, this Court finds that the order dated 26.06.2020, passed by the Juvenile Justice Board, East Champaran at Motihari in connection with Kotwa PS case no. 147 of 2020, whereby and whereunder the prayer of the petitioner for grant of bail has been rejected as also the order dated 18.12.2020, passed by the learned court of 1st Additional Sessions Judge, East Champaran, Motihari in Cr. Appeal (Juvenile) no. 15 of 2020 suffer from total non-consideration of the actual facts and circumstances of this case, as discussed herein-above in the preceeding 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, hence are fit to be set aside. Consequently, the afore-said order dated 26.06.2020, passed by the Juvenile Justice Board, East Champaran at Motihari and the order dated 18.12.2020, passed by the learned court of 1st Additional Sessions Judge,



East Champaran, Motihari 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 Juvenile Justice Board, East Champaran, Motihari in connection with Kotwa PS case no. 147 of 2020, 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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