

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.224 of 2021

Arising Out of PS. Case No.-187 Year-2018 Thana- SUPAUL District- Supaul

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Karn Kumar @ Raja Kumar @ Raja, aged about 18 years (M), under the Guardianship of his natural Guardian Father Binod Kumar Yadav, R/o village- Sahugarh, Diwani Tola, Ward No. 13, Madhepura, P.S.- Madhepura, District- Madhepura.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Petitioner : Mr. Pawan Kumar, Advocate
For the Respondent : Mr. Brajendra Nath Pandey, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 26-11-2021 Learned counsel for the petitioner is directed to remove the defects, as pointed out by the office, within a period of eight weeks.

Heard learned counsel for the petitioner and learned counsel for the State through Virtual mode.

This Criminal Revision Application has been preferred against the order dated 09.01.2021, passed by learned Additional Sessions Judge-Ist, Supaul, in Criminal Appeal No. 21 of 2020, whereby the appeal filed by the petitioner was dismissed against the order dated 03.11.2020, passed by learned Juvenile Justice Board, Supaul, in G.R. Case No. 581/2018, arising out of Supaul P.S. Case No. 187 of 2018 registered under Section 392 of the Indian Penal Code, whereby and whereunder



the Juvenile Justice Board, Supaul, has rejected the prayer for bail of the petitioner.

The facts of the case, in brief, is that while the informant was returning home, three unknown miscreants came riding on a Motorcycle and robbed the Mobile and Motorcycle of the informant on gun point and flee away.

Learned counsel for the petitioner submits that the petitioner is a juvenile and is in Remand Home since 28.08.2020. He has been falsely implicated in the present case. The petitioner is not named in the F.I.R. His name has transpired in the present case on the basis of confessional statement of co-accused, namely, Banti Yadav @ Krishan Kumar. There is no recovery of any looted article from the possession of the petitioner. The prosecution has not conducted T.I.P. for identification of the accused persons. He further submits that the father of the petitioner is ready to furnish an undertaking that while on bail he will not allow the petitioner to associate with criminals or anti-social elements. The petitioner has relied upon the judgment of *Lalu Kumar and Ors. V. The State of Bihar (reported in 2019 (4) PLJR 833)* where a Division Bench of this Court while considering the scope of Section 12 of the Juvenile Justice Act, 2015, in paragraph no. 84 of the judgment



has observed the following.

“ 84. While interpreting Section 12, the Board is duty bound to be guided by the fundamental principles enumerated in Section 3 of the Act of 2015, specially the principles of ‘best interest’, ‘repatriation’ and ‘restoration’ of child. The fundamental principles in Section 3(xii) provides that a child shall be placed in institutional care as a step of last resort after making a reasonable inquiry. The gravity and nature of the offence are immaterial for consideration of bail under the Act of 2015. As per Section 12 of the Act of 2015, an application for bail is not decided by reference to classification of offences, as bailable or non-bailable under the Cr. P.C. All persons alleged to be in conflict with law and apparently a child when apprehended must be released except in the following three circumstances when there is reasonable ground for believing that:-

- (i) The release is likely to bring that person into association with any known criminal;*
- (ii) The release is likely to expose the said person to moral or psychological danger; and*
- (iii) The release would defeat the ends of justice.”*

Learned A.P.P. for the State is present and has opposed the prayer for bail of the petitioner.

Having regard to the facts and circumstances of the case, Social Investigation Report of the petitioner was called for from the concerned Probation Officer by order dated 16.08.2021. The Probation Officer in his report has reported that at present the petitioner is living a calm and disciplined life. He is not in company of any criminal or anti-social element.



Further, after undergoing some counselling he should join the mainstream society.

The law requires that reasonable grounds should be there for believing that in the event of grant of bail, the petitioner would go into association of any 'known criminal' or exposed to moral, physical and psychological danger or the release of the person would defeat the ends of justice. There is no reference of any known criminal nor there is any other substantive material for the conclusion as recorded by the court below.

Hence, the impugned order suffers from failure to exercise jurisdiction vested in law, is result of error apparent on the face of the record and non-consideration of provisions of law. Accordingly, this Criminal Revision Application is allowed and the order dated 09.01.2021, passed by learned Additional Sessions Judge-Ist, Supaul in Criminal Appeal No. 21/2020, arising out of Supaul P.S. Case No. 187/2018, is set aside.

Let the petitioner, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of either of his parents on execution of surety bond of Rs. 10,000/- (Rupees Ten Thousand Only), to the satisfaction of learned Juvenile Justice Board, Supaul, in connection with



Supaul P.S. Case No. 187/2018, with the condition that, the father of the petitioner shall furnish an undertaking that while the petitioner is on bail, he will not allow the petitioner to come in company/association with any criminal or anti-social element and that he will take proper care of the petitioner. Further, the petitioner will be produced as and when required by the Juvenile Justice Board and shall co-operate in the trial.

(Sudhir Singh, J)

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