

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.211 of 2021**

Arising Out of PS. Case No.-285 Year-2020 Thana- SHERGHATI District- Gaya

KANTUN KUMAR @ KANTUN KUMAR YADAV Minor under the guardianship of His Mother namely Smt. Nirmala Devi, Wife of Sri Vilash Yadav, resident of Village- Jamnaiya, P.S.- Dobhi, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Lilawati Singh

For the Respondent/s : Mr.Sanjay Kumar Tiwary

**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

3 06-04-2021 Heard learned counsel for the petitioner and learned APP for the State through virtual court proceeding.

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 04.01.2021 passed in Cr. Appeal (Juvenile) 65/2020 (C.I.S.) as well as order dated 04.11.2020 passed by the Juvenile Justice Board, Gaya in Misc. No.141/2020 in connection with Sherghati (Dobhi) P.S. Case No.285/2020, G.R. No.890/2020 registered under sections 147, 148, 341, 323, 379, 307, 504, 506 of the IPC and subsequently section 302 of the IPC was added on 09.08.2020.

The petitioner was declared juvenile by the Juvenile



Justice Board and the order got finality.

The prosecution case, in short is that the informant was talking at her door, in the meantime, this petitioner and other accused persons armed with deadly weapons came and started abusing them. When the informant raised objection, they assaulted her. On alarm other family members reached there and they were also assaulted by the accused persons due to which the informant side got injured. In the meantime, this petitioner took out her golden ear ring.

Learned counsel for the petitioner submits that the petitioner is quite innocent, has committed no offence and has been falsely implicated in this case due to land dispute and grudge being own agnates (Gotiya). The allegation against the petitioner is omnibus and general in nature and the only specific allegation against this petitioner is that he has taken gold earring of the informant, hence ingredient of 379 IPC can only be attracted against the petitioner, which is also false, incorrect. 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 a student of Intermediate and was to appear in the examination which was held on 01.02.2021.

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 04.01.2021 and 04.11.2020 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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