

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.246 of 2021

Arising Out of PS. Case No.-327 Year-2020 Thana- BUXAR District- Buxar

Pawan Kumar, S/O Dadan Prasad, R/O Village-Shanti Nagar Chini Mill,
P.S.- Buxar Town, District -Buxar.

Through Dadan Prasad, S/O Late Bideshi Prasad, Father and Natural
Guardian of petitioner-Pawan Kumar, R/O Vill. - Shanti Nagar Chini Mill,
P.S. - Buxar (Town), Dist. - Buxar.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Dr. Kamal Deo Sharma, Advocate
For the Respondent/s : Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

6 13-08-2021 The matter has been taken up today for consideration
through video conferencing.

Heard learned counsel for the petitioner and the
learned APP for the State.

Learned counsel for the petitioner submits that this
application has been filed through father and natural guardian
Dadan Prasad, but due to inadvertence, he has been shown as
Petitioner No.2 in the petition. It is submitted that inadvertent
error be ignored and instead of Petitioner No.2(Dadan Prasad),
Dadan Prasad be read as father and natural guardian of
petitioner-Pawan Kumar for the purposes of filing *Vakalatnama*
and the instant case, as the petitioner is a minor.



Prayer is allowed. The party position may be modified accordingly in the cause title of the petition. Office to ensure that necessary correction is made in the cause title.

The present revision application has been preferred against the judgment and order dated 01.02.2021 passed in Criminal Appeal No.37 of 2020 by the learned Additional Sessions Judge-I, Buxar, whereby and whereunder he has affirmed the order dated 09.11.2020 passed by the Juvenile Justice Board, Buxar, in Buxar (Nagar) P.S. Case No.327 of 2020 for the alleged offences registered under Sections 21, 22 and 27 of the N.D.P.S. Act.

While 40 small sachets have been recovered from the petitioner-Pawan Kumar, he has disclosed that it was given to him for selling the same by the wife of one Buchun Rajbhar. It is alleged that the same contains heroin like intoxicating substance.

Counsel for the petitioner submits that as per the declaration made by the Juvenile Justice Board, Buxar, under order dated 4.11.2020, the petitioner has been held to be a juvenile, aged 16 years 06 months and 30 days, at the time of the alleged recovery. The recovery is denied and disputed altogether. It is further submitted that the same, even if taken to



be true, without admitting the same, is 10 Grams, i.e., 05 Grams more than the small quantity and much less than the commercial quantity (250 Grams). Being a juvenile, the petitioner has been in custody in this case since 01.08.2020. He is stated to be having no criminal antecedents.

Social Investigation Report reveals that the petitioner's parents also have some criminal history. This Court therefore requested the petitioner's counsel as well as the learned APP to suggest measures for welfare of the petitioner.

Affidavit has been filed by one Chandan Choudhari (*Mama* of the petitioner) giving an assurance before this Court that he will take responsibility of the petitioner.

Considering the aforesaid facts and circumstances and since there is no material brought to the notice of this Court, in terms of Section 12 of Juvenile Justice (Care and Protection of Children) Act, 2015, can reject the petitioner's prayer for bail, as there is no material to suggest that he is likely to fall in association of known criminals, nor there is any risk to his safety upon his release. The prayer of the petitioner therefore for his release on bail is allowed, subject to care and supervision as per assurance given by his *Mama*. This Court would further direct that Child Probation Officer should monitor the



petitioner's well-being on a monthly basis.

Having considered all facts and circumstances, let the petitioner-Pawan Kumar, 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 learned Juvenile Justice Board, Buxar, in connection with Buxar (Nagar) P.S. Case no. 327 of 2020, in favour of his *Mama*, 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 *Mama*, who at the time of filing of bonds, shall also give an undertaking that he will take proper care of this petitioner and in case the petitioner does not act as per advice, he shall report the matter of 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.

In this result, the revision application is allowed and the impugned order 01.02.2021 passed in Criminal Appeal No. 37 of 2020 by learned Additional Sessions Judge-I, Buxar as also the order dated 09.11.2020 passed by Juvenile Justice Board, Buxar, in Buxar (Nagar) P.S. Case No.327 of 2020, is set aside.



This Court would expect that the petitioner’s counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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