

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.22707 of 2021**

Arising Out of PS. Case No.-585 Year-2020 Thana- MUZAFFARPUR SADAR District-
Muzaffarpur

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VISHAL KUMAR Son of Ram Milan Sah Resident of Village - Hasan
Bangra, P.S.- Sadar, Distt.- Muzaffarpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Nachiketa Jha, Adv.

For the Opposite Party/s : Ms. Sangeeta Sharma, Adv.

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**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

2 21-08-2021 Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Petitioner in the present case is seeking regular bail in
connection with Muzaffarpur Sadar P.S. Case No.585/2020
registered for the offences punishable under Sections 413, 414,
419, 420, 467, 468 and 471/34 of the Indian Penal Code.

While hearing this bail application under Section 439
and 440 Cr.P.C., this Court was informed that the petitioner was
a juvenile at the time of alleged offence which took place on
08.10.2020.

Learned counsel for the petitioner submits that in fact
after the petitioner was apprehended by police, he has been
involved in three cases of theft by the same I.O., however, he

has been granted bail in all those three cases by learned Juvenile Justice Board, Muzaffarpur. He has got four criminal antecedents.

When this Court called upon learned counsel for the petitioner to explain as to why the prayer for bail was not moved before the Juvenile Justice Board in this case, learned counsel submits that in this case the petitioner was arrested by police, he was produced before the learned C.J.M. court at Muzaffarpur and then he was sent behind the bar. Learned counsel submits that he has moved this Court in the regular bail application only because the impugned order has been passed by learned Additional District and Sessions Judge-I, Muzaffarpur in a regular bail application filed before the learned court below.

The petitioner has enclosed his matriculation certificate of Bihar School Examination Board, Patna showing his date of birth as 02.03.2003.

Learned counsel for the petitioner submits that the petitioner being a juvenile was required to be produced before the Juvenile Justice Board, he was forwarded in judicial custody in a routine and mechanical manner as a result whereof he has been kept in jail.

As regards the allegation against the petitioner it is the

prosecution case that the petitioner was arrested along with co-accused Rajesh Kumar when they were trying to flee away by the motorcycle on seeing the police party.

Learned counsel submits that from the FIR itself it would appear that the petitioner was arrested by police at about 12.00 noon but there is no independent witnesses to the seizure list. Two seizure list witnesses are the members of the police party. No other incriminating article has been recovered from the possession of the petitioner.

Learned APP for the State is present. There is no answer to the submission of learned counsel for the petitioner that why the petitioner was forwarded in judicial custody and has been kept in jail without ascertaining his age on the alleged date of occurrence by the learned C.J.M.

In the facts and circumstances of the case, this Court directs release of the petitioner on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned C.J.M., Muzaffarpur in connection with Muzaffarpur Sadar P.S. Case No.585/2020 subject to the condition that one of the bailors would be the father of the petitioner who will also give an undertaking that after release of the petitioner on bail he

would not be allowed to fall in bad association.

This Court calls for a report from the learned District Judge, Muzaffarpur as regards the circumstances in which the age of the petitioner was not assessed by the learned C.J.M. before whom the petitioner was produced by the police and this Court also directs the State to file an appropriate explanation through the Superintendent of Police, Muzaffarpur as to why the I.O. of this case arrested the petitioner in disregard to the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015. The petitioner prima-facie seems to be juvenile. His date of birth is mentioned in the B.S.E.B. certificate.

Let both the reports be produced within two weeks.

List this matter on 06.09.2021.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.