

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.267 of 2021

Arising Out of PS. Case No.-281 Year-2019 Thana- DARAUNDA District- Siwan

PRASHANT KUMAR GIRI SON OF ARUN KUMAR GIRI R/O
VILLAGE- RUKUNDIPUR MATHIYA, P.S.- DARAUNDA, DISTRICT-
SIWAN UNDER GUARDIANSHIP OF HIS GRAND MOTHER- SHIV
KUMARI DEVI, AGED ABOUT 64 YEARS (F), W/O-
CHANDRASEKHAR GIRI, R/O VILLAGE- RUKUNDIPUR MATHIYA,
P.S.- DARAUNDA, DISTRICT- SIWAN.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Pandey, Adv
For the Respondent/s	:	Ms. Pushpa Sinha.1, APP
For the Informant	:	Mr. Prashant Kumar, Adv

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 09-09-2021

In view of sudden resurgence of COVID – 19 infection
there is limited functioning of the High Court and therefore the
matter has been listed for consideration through virtual mode.

Heard learned counsel for the petitioner and learned
counsel for informant who has appeared along with learned
APP for the State.

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

The present revision application has been preferred
against the order dated 20.1.2021 passed by Children's Court-cum-



1st Additional Sessions Judge cum Special Judge, Siwan in Criminal Appeal No. 8/2020 as well as order dated 11.2.2020 passed by Juvenile Justice Board, Siwan in J.E. No. 380/2019 arising out of Darunada P.S. Case No. 281/2019 registered under Sections 147, 148, 149, 341, 323, 326, 307 and 302 of the Indian Penal Code.

The petitioner along with co-accused Arun Giri and Anuj Giri has assaulted the victim by spear as per allegation made in the F.I.R.

It is submitted by petitioner's counsel that the petitioner is a juvenile and has falsely been implicated in this case. Referring to the order passed by the Juvenile Justice Board as well as the Children's Court-cum-first Additional District cum Sessions Judge, Siwan rejecting the petitioner's prayer it is submitted that they have taken note of the fact that as per Social Investigation Report there is no material in terms of the proviso to Section 12 so as to bring the petitioner's prayer for bail within the exceptions prescribed under the Juvenile Justice (Care and Protection of Children) Act. In absence of such exceptional circumstances giving rise to a likelihood of the petitioner coming into contact of known criminal elements or any circumstance suggesting that he is likely to suffer physical, psychological or moral danger, the petitioner as per mandate of Section 12 is entitled to be released on bail.



On the merits of the allegation, it is submitted that three persons including the petitioner have allegedly assaulted by spear whereas only two stab injuries have been found on the victim. Sufficient material has come before the J.J. Board and the learned A.D.J. who have rejected the petitioner's prayer, and recorded in the order that since the last six months there is subsisting dispute between the family of the petitioner and informant's son. Almost all the family members of the petitioner have been implicated and are in custody. In the circumstances the grand-mother has given an undertaking that she would be taking care of the petitioner. It has also come in the orders rejecting the prayer for bail that he was arrested while he was on his way back from coaching, one day after the alleged occurrence. He is stated to be in custody since 16.12.2019.

The aforesaid facts and circumstances have to be considered by this Court in light of the provisions of the Act, taken note herein-above.

Learned APP and counsel for informant however have opposed the prayer for bail. It is submitted that specific allegation of assault is levelled against the petitioner. It is further submitted that it is in the best interest of the child



(petitioner) to remain in the custody which is being provided at his custodial centre.

Having considered all facts and circumstances, this Court for the purposes of grant of bail is inclined to accept the submissions advanced by the petitioner's counsel. The above name petitioner, a juvenile, shall 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 J.M., Siwan in connection with Darunada P.S. Case no. 281 of 2019 (J.E. No. 380 of 2019), subject to the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

In this result, the revision application is allowed and the impugned order dated 20.1.2021 passed by Children's Court-cum-1st Additional Sessions Judge cum Special Judge, Siwan in Criminal Appeal No. 8/2020 as well as order dated



11.2.2020 passed by Juvenile Justice Board, Siwan in J.E. No.
380/2019, is set aside.

(Madhuresh Prasad, J)

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