

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.301 of 2021

Arising Out of PS. Case No.-453 Year-2020 Thana- BARACHATTI District- Gaya

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Mukesh Kumar Aged About 17 Years Son of Rajesh Mandal @ Rajesh Bhuiya Resident of Village - Garvaiya Reganiyatar, PS - Barachatti, District – Gaya.

...

... Petitioner

Versus

The State Of Bihar

... ... Respondent

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Appearance :

For the Petitioner : Mr.Sanjay Kr. Sinha, Advocate

For the Respondent : Mr.A.G.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 10-08-2021 Heard learned counsel for the petitioner and the State.

Instant Cr. Revision application is directed against order dated 24.11.2020, passed by the Juvenile Justice Board, Gaya in Barachatti Police Station Case No. 453 of 2020 by which bail application of the petitioner has been rejected. Petitioner has also challenged judgment dated 9.1.2021, passed by the Court of Special Judge (Children Court), Gaya in Cr. Appeal No. (Juvenile) 72 of 2020 (CIS), by which petitioner's appeal for bail has been rejected.

As per the prosecution case, four FIR named miscreants including the petitioner on the point of firearm looted away informant's bag containing Rs.3,92,000/- and a mobile phone.

It is submitted by learned counsel for the petitioner that the petitioner has been declared juvenile by the Juvenile



Justice Board, Gaya on 21.9.2020 and he has got no criminal antecedent. It is also submitted that the petitioner has got first division in Matriculation and is student of Intermediate. Learned counsel next submits that the father and mother of the petitioner are ready to submit their undertaking before the learned court below stating therein that they shall take proper care of the petitioner and will not allow him to fall in bad company.

Learned counsel for the State opposes the prayer for bail.

It appears that the court below has rejected the petitioner's prayer for bail taking into account the Social Investigation Report which is based on surmises and conjunctures and without there being any substantive evidence. While considering the case of a Juvenile, principle of presumption of innocence of child, his safety and interest of child are prime consideration which are to be kept in mind.

From perusal of provisions of sections 12 of the Juvenile Justice (Care and Protection of Children) Act, it is evident that the Juvenile Justice Board as well as the Appellate Court are required to look into aspects which may be relevant with reference to three grounds, namely, likelihood of



association with criminals, likelihood of moral, physical or psychological danger and likelihood to defeat ends of justice, rather than searching into merits of the case or nature and gravity of appellations.

Considering the rival submissions of the parties as also the social investigation report and the position of law as stated above, orders dated 24.11.2020 and 9.1.2021 are set aside. Accordingly, the petitioner as mentioned above, is directed to be enlarged on bail on furnishing bail bond of Rs.10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of JJB, Gaya in Barachatti Police Station Case No. 453/2020, subject to the condition that the parents of the petitioner shall file an affidavit before the concerned court below giving the undertaking that they shall take good and proper care of the petitioner and shall try to keep him away from the bad company and also try to bring change in the behaviour of the petitioner.

With the aforesaid observation and discussion, this application is allowed.

(Prabhat Kumar Singh, J)

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