

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.326 of 2021

Arising Out of PS. Case No.-183 Year-2020 Thana- DELHA District- Gaya

GUDDU KUMAR @ MUGLI Son of Raj Kumar Paswan Resident of Mohalla- Bageshwari, Near Devi Asthan, P.S.- Delha, District- Gaya, petitioner being minor at the time occurrence represented through his legal and Natural guardian i.e. mother namley Poonam Devi aged about 45 years, Wife of Raj Kumar Paswan, resident of Bageshwari near Devi Asthan, P.S.- Delha, District- Gaya (Bihar).

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjeev Kumar Singh, Adv.
For the Respondent/s : Mr.Ajit Kumar, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 26-08-2021 Heard learned counsel for the petitioner and learned APP for the State through virtual court proceeding.

Learned counsel for the petitioner undertakes to remove the defects within four weeks of resumption of normal court proceeding. In the eventuality of non-removal of defects within undertaken period, office will place the matter before the Bench.

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 23.01.2021 passed in Cr. Appeal (Juvenile) No.67/2020 as well as order dated 07.11.2020 passed by the Juvenile Justice Board, Gaya in connection with Delha P.S. Case No.183/2020 registered under sections 392, 395, 412



of the Indian Penal Code.

The petitioner was declared juvenile by the Juvenile Justice Board and the order got finality.

The prosecution case, in short is that on 10.8.2020, while the informant was going to deposit cash Rs.6,64,000/- in Punjab National Bank, in the way three youngster intercepted his motor cycle and one of them snatched his bag containing the said cash and mobile and all the accused fled away. It is alleged that during course of investigation on the basis of CCTV footage and information of spy one Golu Kumar was arrested and Rs.59,500/- was recovered from his house and he in confessional statement he disclosed the name of his eight associates and also narrated the occurrence and there after petitioner was also arrested along with his motor cycle and from his pocket Rs.50,000/- was recovered.

Vide order dated 22.07.2021, case diary as well as social investigation report of the Probation Officer was called for.

The same has been received and kept at Flag 'B'. Perused the case diary and the social investigation report, which indicates that the petitioner has no bad behavior or criminal antecedent prior to the present occurrence.

Learned counsel for the petitioner submits that the



petitioner is quite innocent and has committed no offence. He is not named in the FIR rather his name has transpired in this case on the basis of confessional statement of co-accused Golu Kumar. The co-accused Golu Kumar had petty fate with the petitioner so with malicious intention he confessed the name of petitioner and except his confessional statement there is no cogent evidence against the petitioner. Similarly situated co-accused namely Aditya Raj @ Golu Kumar has been granted bail vide order dated 16.03.2021 passed in Cr. Misc. No.39194 of 2020 by a co-ordinate Bench of this Court. No T I parade has been held till date and the cash and motor cycle recovered from the possession of petitioner belongs to his father and not the looted article nor the informant claimed over the same. 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.

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 23.01.2021 and 07.11.2020 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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