

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.357 of 2021

Arising Out of PS. Case No.-313 Year-2020 Thana- BEGUSARAI TOWN District- Begusarai

SAURAV KUMAR S/O GAURI MAHTO R/O VILLAGE-BARHARA, P.S.-
BIRPUR, DISTRICT-BEGUSARAI.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Pramod Man Bansh, Adv. Mr.Satyendra Kumar Bhatnagar, Adv. Ms.Kumari Sadhna Rani, Adv.
For the Respondent/s	:	Mr.S.M.Rahman, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
CAV ORDER

4 3-11-2021 Heard learned counsel for the petitioner and learned APP
for the State.

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 06.02.2021 passed by learned Additional Sessions Judge-I cum- P.O. Children Court, Begusarai in Cr. Appeal No.06/2021 as well as order dated 04.01.2021 passed by the Juvenile Justice Board, Begusarai in connection with Begusarai Town P.S. Case No.313/2020, corresponding to G.R. No.2024/20, J.J.B. No.167/2020 registered under sections 147, 148, 149, 302, 120B IPC and section 27 of the Arms Act.

The petitioner was declared juvenile by the Juvenile



Justice Board ascertaining his age 16 years and one month and the order got finality.

The prosecution case in short as per the FIR lodged by one Rohit Kumar is that on 20.06.2020 at around 10.30 p.m., Rahul (deceased now) was on his ice cream counter then, this petitioner along with three other persons came and demanded ice cream and then this petitioner fired on Rahul and the bullet struck on his head. Thereafter, they fled away and the injured was brought to hospital but died during treatment.

Learned counsel for the petitioner submits that the petitioner is quite innocent and has committed no offence. The alleged allegation is totally false and fabricated. The finding given by the learned Appellate Court is bad in law and against the spirit of Juvenile Justice Act. The Juvenile Justice Board or the learned Appellate court did not disclose the reasonable grounds for believing that the release is likely to bring the petitioner into association of any known criminal. Moreover, no name of known criminal has been disclosed either in the order of J.J. Board or by the learned Appellate Court. It is further submitted that there is absolutely no 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.

Learned counsel referred to the provision of section 12 of Child Care and Protection Act which reads as under:

“When any person, who is apparently a child and is alleged to have committed bailable or non-bailable offence, is apprehended or detained by the Police or appears or brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973(2 of 1974) or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a Probation Officer or under the Care of any fit person.”

On the basis of the aforesaid submissions, learned counsel for the petitioner submits that the petitioner, who is a minor and in custody since 23.06.2020, be released on bail.



Learned APP for the State opposed the prayer for bail on the ground that the petitioner has one criminal antecedent and he along with other co-accused has committed the heinous crime. His release will bring him in association with known criminals and also there is likelihood of moral, physical and psychological danger to the petitioner.

Vide order dated 06.09.2021, case diary, social investigation report as well as report of the Probation Officer were called for.

The same have been received and flagged as 'SIR'. Perused the social investigation report, which does not indicate that the petitioner be treated threat to the society.

Having gone through the submissions of the parties, the case diary, the report of the Probation Officer as well as the social investigation report, I find that both the courts below without appreciating the true object of section 12 of the Juvenile Justice Act have rejected the prayer for bail of the petitioner without sufficient reasonable ground after believing that the petitioner is in contact with some bad element. No material has been brought on record to show that the release of the juvenile would expose him to moral, physical or psychological danger.

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 06.02.2021 and 04.01.2021 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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