

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.348 of 2021**

Arising Out of PS. Case No.-149 Year-2020 Thana- NOWKOTHI GARHPURA District-
Begusarai

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RAUSHAN KUMAR S/O RAM GOPAL SINGH @ GOPAL SINGH
THROUGH HIS FATHER AS GUARDIAN NAMELY RAM GOPAL
SINGH @ GOPAL SINGH, R/O VILLAGE-VRINDAWAN, WARD NO. 3,
P.S.-NAWKOTHI, DISTRICT- BEGUSARAI

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sandip Kumar Gautam, Adv.
For the Respondent/s : Mr.Sanjay Kumar Tiwary, APP

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**CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER**

4 24-09-2021 Heard learned counsel for the petitioner and learned APP
for the State through virtual court proceeding.

This is an application u/s 102 (as per new amendment) of
the Juvenile Justice (Care and Protection of Children) Act, 2015,
challenging the order of lower appellate court dated 01.02.2021
passed in Cr. Appeal No.86/2020 as well as order dated
08.12.2020 passed by the learned Principal Magistrate, Juvenile
Justice Board, Begusarai, in connection with Nawkothe P.S.
Case No.149/2020 (J.J.B. Case No.157 of 2020) initially
registered under section 363 of the IPC but later on sections
302, 201, 120(B), 34 IPC has been added.

The petitioner was declared juvenile by the Juvenile



Justice Board and the order got finality.

The prosecution case, in short is that on 06.10.2020, while the son of informant namely Prince Kumar @ Kare was sleeping near the well in front of his house, at 12.00 pm his son disappeared from the said place and his mobile number was switched off. Hence, the FIR was lodged with a request to search his son.

Learned counsel for the petitioner submits that the petitioner is quite innocent and has committed no offence. He has been implicated in this case on the basis of a false, baseless and concocted allegation. He is not named in the FIR and the same has been registered against unknown. It is evident from the FIR that the informant is not the eye witness of the incident. During investigation, name of petitioner transpired in the case as few days ago, some dispute/altercation has taken place between the informant's son and the petitioner and one Bhola Kumar @ Sunny. Learned counsel for the petitioner submits that similarly situated co-accused Bhola Kumar @ Sunny has been granted bail vide order dated 24.08.2021 passed in Cr. Misc. No.12551 of 2021 by a co-ordinate Bench of this Court. 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. It is further submitted that petitioner has no criminal antecedent and is languishing in custody since 13.10.2020.

Vide order dated 06.08.2021, case diary, social investigation report as well as report of the Probation Officer were called for.

The same have been received. Perused the social investigation report which does not indicate that the petitioner has any behavior issue or connected with the bad element in the society prior to the present occurrence.

Considering the facts and circumstances of the case, 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 01.02.2021 and 08.12.2020 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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