

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.356 of 2021**

Arising Out of PS. Case No.-280 Year-2020 Thana- BUXAR MUFFSIL District- Buxar

1. XX

2. XY

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Singh, Adv.

For the Respondent/s : Mr. Satyavrat Verma, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY

ORAL ORDER

3 21-10-2021 Heard learned counsel for the petitioners and
learned APP for the State.

Though the petitioners have given full description in the application, it would be inappropriate to disclose their identity in view of section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Thus, they are being referred to in the cause title as XX and XY.

This application has been preferred under the Juvenile Justice (Care & Protection of Children) Act, 2015 against the order dated 2.3.2021 passed by the learned Additional District and Sessions Judge 1st-cum-Special Judge, (Children's Court), Buxar whereby the prayer for bail of the two petitioners in connection with Buxar Mufassil P.S. case no.280 of 2020 registered under sections 302, 201, 379 and 34



of the Indian Penal Code, was rejected.

As per the prosecution case, the 16 years old nephew of the informant had started with the informant's younger brother on a motorcycle. It is stated that on 29.8.2020, he received information on mobile that his nephew had been done to death by stabbing him with a knife in his neck.

It is submitted by learned counsel for the petitioners that the F.I.R was registered against unknown. The name of the petitioners transpired in course of investigation when it is stated that the two petitioners who were cousin brothers (*mamera-phufera* brothers) are stated to have struck the said Ankit Kumar with a knife on account of a love affair. It is submitted by learned counsel for the petitioners that there is no material against the petitioners except their confessional statement before the police which is inadmissible. By order dated 10.12.2020 passed by the Juvenile Justice Board, Buxar, both the petitioners were declared to be juvenile in conflict with law. They are in juvenile home since 8.10.2020 and have no criminal antecedent. With respect to the order of the learned Court below it is submitted that the learned trial Court has committed an error in going on the seriousness of the allegations which is in teeth of the judgment of this Court in



the case of *Lalu Kumar & Ors. versus State of Bihar & Ors.* [2019(4) PLJR 833], in paragraph 87 of which it has been held that the seriousness of the offence alleged cannot be made a ground for rejecting the bail in a case of a child in conflict with law. Further nothing has been brought on record to show that the release of the petitioners would expose them to moral, physical or psychological danger or as to how in the event of grant of bail the ends of justice would be defeated.

The prayer for bail is opposed by learned APP for the State.

Having heard learned counsel for the parties and taking into consideration the nature of allegations, the material that has transpired in course of investigation together the petitioners having been declared to be a juvenile by the above mentioned order, being in juvenile home since 8.10.2020 and not having any criminal antecedent, the Court is inclined to allow the instant application. The application is allowed and the order impugned dated 16.9.2021 passed by the learned Additional District and Sessions Judge 1st-cum-Special Judge, (Children's Court), Buxar, is set aside.

It is directed that on the undertaking given by their father/mother, the petitioners shall be enlarged on bail in connection



with Buxar Mufassil P.S. case no.280 of 2020 on each of them
furnishing bail bond of Rs. 10,000/ (Rupees ten thousand) with two
sureties of the like amount each to the satisfaction of the learned
Juvenile Justice Board, Buxar.

(Partha Sarthy, J)

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