

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.357 of 2020

Arising Out of PS. Case No.-73 Year-2019 Thana- KANTI District- Muzaffarpur

XX

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Parasmani, Adv.

For the Respondent/s : APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

2 08-10-2021 Heard learned counsel for the petitioner and
learned APP for the State through video conferencing.

Though the petitioner has given full description in the application, it would be inappropriate to disclose his identity in view of section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Thus, he is being referred to in the cause title as XX.

This application has been preferred under the Juvenile Justice (Care & Protection of Children) Act, 2015 against the order dated 20.4.2020 passed by the learned 1st Additional District Judge-cum-Special Judge, POCSO- cum- Children Court, Muzaffarpur whereby the prayer for bail of the petitioner in connection with Kanti P.S. case no.73 of 2019 registered under sections 302 and 34 of the Indian Penal Code and section 27 of the Arms Act, was rejected.

As per the prosecution case, the son of the



informant proceeded from the house at about 10 am. At about 1.30 pm the informant got information that both his sons had been killed by unknown accused persons.

It is submitted by learned counsel for the petitioner that the F.I.R was registered against unknown. The name of the petitioner transpired in course of investigation in the confessional statement of a coaccused made before the police. No incriminating article has been recovered to implicate the petitioner in the alleged crime. It is submitted that by order dated 27.2.2020 passed by the Juvenile Justice Board, Muzaffarpur, the petitioner was declared to be a juvenile in conflict with law. He is in juvenile home since 12.2.2020. 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 allegation 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 held that the seriousness of the offence alleged cannot be made a ground for rejecting 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 petitioner would expose him 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 facts of the case, petitioner
having been declared to be a juvenile by the above mentioned
order and being in juvenile home since 12.2.2020, the Court is
inclined to allow the instant application. The application is
allowed and the order impugned dated 20.4.2021 passed by
the learned 1st Additional District Judge-cum-Special Judge,
POCSO-cum-Children Court, Muzaffarpur, is set aside.

It is directed that on the undertaking given by his
father, the petitioner shall be enlarged on bail in connection
with Kanti P.S. Case no. 73 of 2019 on 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, Muzaffarpur.

(Partha Sarthy, J)

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