

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.388 of 2021

Arising Out of PS. Case No.-261 Year-2017 Thana- GOPALGANJ TOWN District-
Gopalganj

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Qyam Ali @ Qyam Ansari @ Qyamuddin Ahmad, Son of Basir Ahamad,
Resident of Village-Bhojpurwa, P.S.-Manjhagarh, District - Gopalganj, under
the guardianship of his father namely Basir Ahamad.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Javed Aslam, Advocate

For the Respondent/s : Mr. Mritunjay Kumar Nirala, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

4 09-09-2021 Heard learned counsel for the petitioner and the

learned counsel appearing on behalf of the State.

The present revision application has been preferred
against the judgment dated 24.02.2021 passed in Cr. Appeal
No.13 of 2020 by learned 1st Additional District & Sessions
Judge, Gopalganj as well as the order dated 02.03.2020 passed
in J.E. No.152/2020 arising out of Gopalganj Town P.S. Case
No.261 of 2017 by the learned Juvenile Justice Board,
Gopalganj, whereby and whereunder the learned 1st Additional
District & Sessions Judge and the learned Juvenile Justice
Board have rejected the bail of the petitioner for the offences
punishable under Sections 302, 120B of the Indian Penal Code.

Informant's son went to see a movie where it is



alleged that he has been stabbed. The informant has named eight persons as being the assailants. Petitioner's name has been stated by one person during the course of investigation.

Counsel for the petitioner submits that the petitioner's implication is based on the statement of alleged eye-witness, which is clearly unsustainable in view of the fact that the informant's nephew, who has given intimation regarding the incident to the informant and who claimed to be the eye-witness, named several persons, but has not named the instant petitioner. The motive has also been assigned to one Rafique Shah and Mehrun Nesha.

The petitioner was declared a juvenile on 04.01.2020. The age of the petitioner at the time of alleged incident was assessed to be 15 years 05 months and 20 days.

Petitioner had moved this Court for grant of anticipatory bail and after rejection of the same, has surrendered on 12.12.2019 and he is in custody since then.

Learned APP has opposed the prayer for bail, submitting that the petitioner was one of the assailants who has given several stab injuries.

This Court had earlier requisitioned the Social Investigation Report. Copy of the same has been received. As



per the report of the Probation Officer, exceptions as provided under proviso to Section 12 of the Juvenile Justice (Care and Protection of Children) Act, based on which juvenile's prayer for bail can be rejected, clearly do not exist in the instant case. In absence of such exception, there is mandate of Section 12 to release the juvenile on bail.

Having considered the aforesaid submissions and the legal provisions as well as the recommendation of the Probation Officer which states that the proper counselling is required, this Court allows the prayer for release, subject to the undertaking given by the father of the petitioner. The Probation Officer shall also review the petitioner's welfare on a monthly basis.

Let the above named petitioner, a juvenile, be released on bail on his furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Juvenile Justice Board, Gopalganj, in connection with J.E. No.152/2020 arising out of Gopalganj Town P.S. Case No.261 of 2017, in favour of his father, who shall keep him under his guardianship and produce him as and when required and also subject to the condition that one of the bailors of the petitioner shall be his father who at the time of



filing of the bonds, shall also give an undertaking that he will take proper care of the petitioner and in case the petitioner does not act as per his advice, he shall report the matter to the Officer-in-Charge of the concerned police station and further during the period of bail, the petitioner will be under the supervision of concerned Probation Officer. The Probation Officer shall also review the petitioner's welfare on a monthly basis.

In the result, the revision application is allowed and the impugned orders dated 24.02.2021 and 02.03.2020 are set aside.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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