

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.389 of 2021

Arising Out of PS. Case No.-493 Year-2020 Thana- WAJIRGANJ District- Gaya

VIKASH KUMAR Son of Uday Mistri Resident of Village - Dakhingaon,
P.S. - Wazirganj, District - Gaya through his guardian Uday Mistri, Aged
about 43 years (Male), Son of Deepa Mistri, Resident of Village -
Dakhingaon, P.S. - Wazirganj, District - Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Bipin Singh Son of Ramchandra Singh Resident of Village - Dakhingaon,
P.S. - Wazirganj, District - Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Vinay Mistry
For the Respondent/s : Mr.Dr. Ajeet Kumar

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

2 06-08-2021 This matter is taken up for consideration through
Video Conferencing.

Heard counsel for the petitioner and the State.

Instant criminal revision application is directed
against the judgment and order dated 19.02.2021 passed by
learned Special Judge (Children Court), Gaya in Criminal
Appeal (Juvenile) No. 05 of 2021 (CIS) arising out of Wazirganj
PS Case No. 493 of 2020 GR No. 5269/20, Misc. No. 192/20
registered for the offence under Section 302, 201 and 34 of the
Indian Penal Code, by which prayer for bail of the petitioner has
been rejected.

As per the prosecution case, all the accused persons



including this petitioner took away the son of informant on the pretext of taking bath in a pond and committed his murder by drowning him in deep water.

It is submitted on behalf of learned counsel for petitioner that petitioner is not named in the FIR. Name of the petitioner has surfaced in this case on the basis of confessional statement of co-accused and no specific overt act has been alleged against this petitioner. Petitioner has been found to be juvenile on the alleged date of occurrence, as he was 14 years 02 months and 06 days on that date, so he was declared juvenile. Petitioner has got clean antecedent.

Counsel for the State vehemently opposed the prayer for bail.

From perusal of provisions of sections 12 of the Juvenile Justice (Care and Protection of Children) Act, it is evident that the Juvenile Justice Board as well as the Appellate Court are required to look into aspects which may be relevant with reference to three grounds, namely, likelihood of association with criminals, likelihood of moral, physical or psychological danger and likelihood to defeat ends of justice, rather than searching into merits of the case or nature and gravity of allegation. In this case, without there being such finding or report of social investigation, only nature and gravity of offence has been taken into consideration while considering bail appli

pellant which is contrary to statutory



mandate of Section 12 of Juvenile Justice Act, Interest of children is paramount consideration in such cases. In absence of adverse report of social investigation on those three accounts, the bail should not be denied to a juvenile in conflict with law.

Considering the aforesaid facts, this revision application is allowed. The order dated 19.02.2021 passed by learned Special Judge (Children Court), Gaya in Criminal Appeal (Juvenile) No. 05 of 2021 (CIS) arising out of Wazirganj PS Case No. 493 of 2020 GR No. 5269/20, Misc. No. 192/20, is set aside.

Let the petitioner above-named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned learned Special Judge (Children Court), Gaya in Criminal Appeal (Juvenile) No. 05 of 2021 (CIS) arising out of Wazirganj PS Case No. 493 of 2020 GR No. 5269/20, Misc. No. 192/20 with further condition that the parent or guardian of the petitioner shall file an affidavit for the good behaviour and child's well being for a period of one year.

(Prabhat Kumar Singh, J)

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