

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.398 of 2021

Arising Out of PS. Case No.-194 Year-2020 Thana- KUNDWACHAINPUR District- East
Champaran

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AKASH KUMAR SON OF VYAS CHANDRA SAH @ VYASCHANDRA PRASAD RESIDENT OF VILLAGE- BASANTPUR, P.S.- KUNDWACHAINPUR, DISTRICT- EAST CHAMPARAN, THROUGH HIS MOTHER/GUARDIAN SMT. CHANDRAVATI DEVI, ABOUT 37 Y/F, WIFE OF SRI VYAS CHANDRA SAH @ VYASCHANDRA PRASAD, RESIDENT OF VILLAGE- BASANTPUR, P.S.- KUNDWACHAINPUR, DISTRICT- EAST CHAMPARAN.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Abbhishek Kumar
For the Respondent/s : Mr.Ashok Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 29-10-2021 Heard learned counsel for the petitioner and learned APP
for the State through virtual court proceeding.

Learned counsel for the petitioner undertakes to remove the defects within four weeks of resumption of normal court proceeding. In the eventuality of non-removal of defects within undertaken period, office will place the matter before the Bench.

This is an application u/s 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015, challenging the order of lower appellate court dated 12.03.2021 passed by learned 1st Additional Sessions Judge, East Champaran at Motihari, in Cr. Appeal No.04/2021 as well as order dated 05.02.2021 passed by



the Juvenile Justice Board, East Champaran at Motihari, in J.J.B. Trial No.1023/2020 arising out of Kundwachainpur P.S. Case No.194/2020, registered under sections 272, 273/34 of the IPC and section 30(a), 32, 41(1) of the Bihar Prohibition and Excise Act, 2016.

The petitioner was declared juvenile by the Juvenile Justice Board and the order got finality.

Altogether 900 liters of Nepali Saufy liquor is said to have been recovered from a Bolero Pick-up near Barwakhurd Chowk and this petitioner along with one other were apprehended from the spot.

Learned counsel for the petitioner submits that the petitioner is quite innocent and has committed no offence whatsoever but he has been falsely dragged in this case due to ulterior motive. The J.J.B. finding him above 16 years of age has not conducted preliminary assessment with regard to his mental and physical capacity to commit such offence. 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. The petitioner has no criminal antecedent and is in observation home since 17.12.2020.

On the last occasion, case diary as well as social investigation report of the Probation Officer were called for.

The same has been received. Perused the social investigation report, which does not indicate that the petitioner be treated threat to the society.

Considering the facts and circumstances of this 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 12.03.2021 and 05.02.2021 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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