

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No. 351 of 2021

Arising Out of PS. Case No.-9 Year-2021 Thana- JIRADEI District- Siwan

ANKIT KUMAR PANDEY Son of Kamlakant Pandey Resident of Village -
Jamapur, P.S.- Jiradei, District - Siwan. Under guardianship of his mother-
Sarita Devi, aged about 39 Years (F), W/O- Kamlakant Pandey, Resident of
Village - Jamapur, P.S.- Jiradei, District - Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Pandey, Adv.
For the Respondent/s : Mr.Asha Kumari, APP

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 24-09-2021 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 31.03.2021 passed by the Children
Judge Cum 1st Addl. Sessions Judge, Siwan in Cr. Appeal
No.08/2021 as well as order dated 23.02.2021 passed by the
Juvenile Justice Board, Siwan in J.E. No.35/2021 arising out of
Jiradei P.S. Case No.09/2021 registered under section 307 of the



IPC and section 27 of the Arms Act, subsequently section 302 IPC was added.

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

The prosecution case in brief is that informant's son was called by the petitioner near Sona Nadi and then fired upon his head. It is alleged that one day before the said occurrence, petitioner and other two person came on scooty and talked to him but on 16.01.2021, his son has gone to watch cricket then the petitioner called and fired upon him.

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. There is no eye witness of the occurrence and merely on suspicion he has been dragged in this case. 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 guardian mother of the petitioner undertakes that she will keep his son in her strict guardianship and keep proper watch on him and never allow to mix-up with anybody and person with bad antecedent and she will bear all the expenses for his further study. The petitioner has no criminal antecedent and is in jail custody since 20.01.2021.

Vide order dated 16.08.2021, case diary as well as social investigation report of the Probation Officer was called for.

The same has been received. Perused the social investigation report, which indicates that the petitioner has no bad behavior or criminal antecedent prior to the present occurrence and he is not 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 31.03.2021 and 23.02.2021 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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