

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.396 of 2020

Arising Out of PS. Case No.-317 Year-2018 Thana- KHAJEKALA District- Patna

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Aman @ Md. Islam aged about 15 years, male, Son of Md. Iddu @ Md. Kalam Resident of Village- Barkat Khanka Akhara, P.S.- Khajekalan, District- Patna through his father adlitem namely Md. Edu @ Md. Kalam.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Shashi Shekhar Sharma

For the Respondent/s : Mr.Uday Pratap Singh

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4. 20-09-2021 Heard learned counsel for the parties through video conferencing.

This application has been filed against the order dated 26.10.2019 passed in Appeal No. 114/2019 by learned 1st Additional Sessions Judge, Patna, and order dated 23.04.2019 passed by the Juvenile Justice Board, Gaighat, Patna in J.J.B. Case No. 125/2019 (arising out of Khajekalan P.S. Case No. 317/2018) whereby, the bail petition of petitioner was rejected.

It is submitted on behalf of the appellant that appellant is not named in the FIR. Name of the appellant has surfaced during course of investigation in the confessional statement of co-accused. No incriminating article has been recovered from the possession of the petitioner. Petitioner has been declared juvenile, vide order dated 23.04.2019 passed by Juvenile Justice Board, Patna. The findings of the court below are based on no evidence. Petitioner is in custody since



20.02.2019.

However, learned A.P.P. for the State opposed the revision application and submitted that there is ample material in the case diary against this petitioner, which suggests his involvement in the crime and the impugned orders passed by learned Addl. Sessions Judge and learned Juvenile Justice Board are just and proper and do not require any interference.

Considering the rival submissions of the parties and materials available on record, this Court is of the opinion that the impugned orders are contrary to the mandatory provision contained in Section 12 of the J.J.Act. It is settled law that at the time of considering the bail matter of a juvenile, the merit of the case or nature and gravity of allegation have no relevancy and are not grounds to deny bail to a juvenile, rather the learned court below is required to consider the bail application of child in consonance with Section 12 of the J.J.Act. It is settled law that juvenile to be released on bail unless there is reasonable ground to believe that his release will bring him in the company of bad elements or will expose him to physical or psychological danger or his release would defeat the ends of justice. Social Investigation Report is vague and based on conjecture and surmises.



Considering the aforesaid facts & circumstances as well as the position of law, as stated above, the order dated 26.10.2019 passed in Appeal No. 114/2019 by learned 1st Additional Sessions Judge, Patna as well as order 23.04.2019 passed by the Juvenile Justice Board, Gaighat, Patna in J.J.B. Case No. 125 of 2019 (arising out of Khajekalan P.S. Case No. 317 of 2018) are, hereby, set aside and this criminal revision petition is allowed.

Accordingly, the above-named petitioner is directed to 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 learned Juvenile Justice Board, Patna in connection with J.J.B. Case No. 125 of 2019 (arising out of Khajekalan P.S. Case No. 317 of 2018), subject to condition that *one of the bailor would be father of the petitioner, who would file an affidavit giving an undertaking to the effect that he will take care of good behaviour and child's well-being and will not allow him to go in the company of bad elements.*

(Prabhat Kumar Singh, J.)

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