

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.426 of 2021

Arising Out of PS. Case No.-113 Year-2019 Thana- RUPAULI District- Purnia

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KAVI PASWAN @ KAVI KUMAR S/o Sri Jai Kishor Paswan R/o village-
Ajhokopa, Ward No. 6, P.S.- Rupauli, District- Purnea

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Amit Kumar Anand

For the Respondent/s : Mr.Ram Bilash Roy Raman

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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 Act, 2015, challenging the order of lower appellate court dated 09.04.2021 passed by learned 1st Additional Sessions Judge-cum-Special Judge, Purnea in Cr. Appeal No.06/2021/CIS No.06 of 2021 in connection with G.R. Case No.3078 of 2019 arising out of Rupauli P.S. Case No.113 of 2019, registered under sections 147, 148, 149, 341, 307, 302, 452, 504 and 114 of the Indian Penal Code and section 27 of the Arms Act.



The petitioner was declared juvenile by the Juvenile Justice Board.

The prosecution case, in short is that petitioner and other accused persons entered into the house of the informant and petitioner started intense firing due to which one Bablu Kumar, son of the informant was shot dead. Other accused fired upon her husband due to which he got seriously injured. It is alleged that the offence has been committed due to a land dispute.

Learned counsel for the petitioner submits that the petitioner is quite innocent and has committed no offence. There is case and counter-case between the parties. Earlier, the mother of the petitioner has lodged FIR against the husband of the informant and others prior to this case and only to save his skin, this false case has been lodged against the petitioner. The petitioner has been declared juvenile by the Juvenile Justice Counsel Purnea on 20.01.2021 and found his age to be 15 years 5 months and 26 days on the date of the occurrence. Petitioner has one criminal antecedent and has been languishing in custody since 22.06.2020.

It is further submitted that there is no direct evidence against the petitioner and court below has 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 Court below has refused the prayer on this ground.

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 is not threat to the society.

Under the aforesaid facts and circumstances of the case, since the Court below has 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 the order is fit to be set aside.

Considering the totality of the facts and circumstances as discussed above, this application is allowed and the aforesaid



order dated 09.04.2021 is 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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