

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.370 of 2020

Arising Out of PS. Case No.-154 Year-2015 Thana- BODHGAYA District- Gaya

RAVI KANT KUMAR @ GOLU PASWAN Son of Sunil Paswan Resident of
Mohalla- Kandu Near H.P. Gas Godown, P.S.- Daltenganj, District- Palamu
(Jharkhand).

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Mukesh Kumar, Adv.
For the Respondent/s : Mr. Matloob Rab, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 23-02-2021 Heard Mr. Mukesh Kumar, learned counsel for
revisionist/petitioner and Mr. Matloob Rab, learned APP for the
State.

2. Instant Cr. Revision application has been filed
against the judgment and order dated 12.02.2020 passed in Cr.
Appeal (Juvenile) No. 09/2020 (CIS) by the learned Special
Judge (Children Court), Gaya upholding the order dated
09.01.2020 passed by Juvenile Justice Board, Gaya in
connection with Bodh Gaya PS Case No. 154/2015 registered
for the offence punishable under Section 363 of the IPC,
subsequently, Sections 302, 201, 120(B)/34 of the IPC were also
added, whereby the learned Special Judge, (Children Court),
Gaya refused to release the revisionist/petitioner on bail.

3. The allegation against the revisionist/petitioner is



that on the direction of his friend, Sajan Sharma, petitioner, along with other accused persons, has killed the minor son of the informant, Shiv Shankar Dubey with a view to facilitate the marriage of his friend with the girl, Smriti who was in love with the deceased boy, Deepak Dubey.

4. Learned counsel for the petitioner submits that petitioner was produced before the Juvenile Justice Board where the plea of juvenility was taken on behalf of petitioner and the Juvenile Board declared the petitioner juvenile on 17.12.2019 after coming to the conclusion the the petitioner was a minor at the time of alleged occurrence.

5. Learned counsel further submits that Juvenile Justice Board *vide* order dated 09.01.2020 had rejected the bail application of the petitioner which was challenged in Cr. Appeal (Juvenile)-09/2020(CIS) and the learned Special Judge (Children Court), Gaya has also rejected the bail application of the revisionist/petitioner by the impugned judgment and order dated 12.02.2020.

6. Learned counsel, assailing the impugned judgment and order, submits that learned court below has come to an erroneous conclusion that enlarging the petitioner on bail would defeat the ends of justice and the child in conflict with law



might be subjected to psychological, physical and moral danger and may also be subjected to another crime of similar nature by the anti-social elements of the society. Learned counsel next submits that this finding of the court below has been arrived at without any supporting material on record.

7. Learned counsel has placed reliance upon Sections 3 (i) (iv) (v) and (xiv) of Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as 'the Act') which are quoted hereinbelow:-

(i) Principle of presumption of innocence: Any child shall be presumed to be an innocent of any *mala fide* or criminal intent up to the age of eighteen years.

(ii) Principle of dignity and worth: All human beings shall be treated with equal dignity and rights.

(iii) Principle of participation: Every child shall have a right to be heard and to participate in all processes and decisions affecting his interest and the child's views shall be taken into consideration with due regard to the age and maturity of the child.

(iv) Principle of best interest: All decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop full potential.

(xiv) Principle of fresh start: All past records of any child under the Juvenile Justice system should be erased except in special circumstances.

8. Learned counsel further relies upon Section 12 of



the Act which is as follows:-

12. Bail to a person who is apparently a child alleged to be in conflict with law.--

(1) When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a probation officer or under the care of any fit person: Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person's release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.

(2) When such person having been apprehended is not released on bail under sub-section (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board, it shall make an order sending him to an observation home or a place of safety, as the case maybe, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.

(4) When a child in conflict with law is unable to fulfil the conditions of bail order within seven days of the bail order, such child shall be produced before the Board for modification of the conditions of bail.



9. In the aforesaid background, learned counsel for the petitioner submits that the learned court below has failed to consider the scheme of the Act and arrived at a conclusion that there is a possibility that the petitioner may fall in a bad company after being released on bail and the release of the petitioner on bail would also defeat the ends of justice.

10. Learned counsel for the petitioner submits that petitioner is in custody since 17.12.2019.

11. However, this Court vide order dated 20.01.2021 had called for social background report as well as social investigation report which are kept on record and from perusal of the same, it would be evident that social behaviour of the petitioner was normal and on the basis of the statement taken from the neighbours, the probationary officer has mentioned in his report that the character, behaviour, way of living of the petitioner was good and the petitioner wanted to pursue his studies further. The probationary officer has further opined that the petitioner may be given one chance in order to enable him to start his life afresh.

12. On the other hand, learned counsel for the State submits that from perusal of the allegation against the petitioner, it would be evident that he was actively involved in the



commission of crime and the petitioner along with other accused persons has brutally killed the minor son of the informant. Thus, the allegation against the petitioner is serious in nature.

13. Having regard to the submissions made by the parties and taking into consideration the impugned judgment and order and social background report/ social investigation report of the petitioner, I am of the considered view that the learned lower court has committed material irregularities in arriving at the conclusion that the release of the petitioner on bail will defeat the ends of justice and there is a possibility that the petitioner will fall in a bad company, if released on bail.

14. Accordingly, the judgment and order dated 12.02.2020 passed in Cr. Appeal (Juvenile) No. 09/2020 (CIS) by the learned Special Judge (Children Court), Gaya in connection with Bodh Gaya PS Case No. 154/2015 is set aside and the revisionist/petitioner, RAVI KANT KUMAR @ GOLU PASWAN 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 of learned Juvenile Justice Board, Gaya in Misc. Case No. 262 of 2019 arising out of Bodh Gaya PS Case No. 154/2015, subject to the condition that one of



the bailors shall be the father of the petitioner.

15. Needless to say that at the time of furnishing bail bonds all the parties shall follow the covid protocol of social distancing.

(Anil Kumar Sinha, J)

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