

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.430 of 2021

Arising Out of PS. Case No.-72 Year-2020 Thana- SARMERA District- Nalanda

NITISH KUMAR @ NITISH PASWAN Son of Ishwar Paswan Resident of
Village and P.O. and P.S. - Sarmera, District - Nalanda.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ram Nibash Prasad
For the Respondent/s : Mr.Madhura Nand Jha

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 05-08-2021 This matter is taken up for consideration through
Video Conferencing.

Heard counsel for the petitioner and the State.

Instant criminal revision application is directed against the judgment and order dated 04.06.2021 passed by learned Additional Sessions Judge Ist, Nalanda at Biharsharif in Children Case No. 07 of 2021 arising out of Sarmera PS Case No. 72 of 2020 registered for the offence under Section 341, 307, 324, 302/34 of the Indian Penal Code, by which prayer for bail of the petitioner has been rejected.

As per the prosecution case, on 30.03.2020 at about 12.35 O' clock, informant's son Kundan Kumar and his friend Vikash Kumar had gone to bring bicycle, on the way, all the FIR named accused persons including petitioner and three unknown



surrounded them and assaulted Vikash Kumar. On protest by Kundan Kumar co-accused Anil Chaudhary shot him by his pistol which hit his chest and other accused persons wounded Vikash Kumar with knife. On hulla, when the informant went there, he saw all the accused persons including petitioner. During course of treatment, informant's son Kundan Kumar died.

It is submitted on behalf of learned counsel for petitioner that specific allegation of firing is against co-accused Anil Chaudhary. There is general and omnibus allegation of inflicting knife blow upon Vikash Kumar. Petitioner has been found to be juvenile on the alleged date of occurrence, as he was 16 years 10 months and 14 days on that date, so he was declared juvenile. Petitioner has got clean antecedent.

Counsel for the State vehemently opposed the prayer for bail.

It appears that the court below has rejected the petitioner's prayer for bail on the ground that if he is released he may again involve himself in similar types of offence and as per social investigation report, the child in conflict with law is enough mature to understand the consequence of his act and yet he is mature enough mentally and physically and only taking



plea of Juvenility on the basis of certificate, the gravity of offence committed by him cannot be ignored.

From perusal of provisions of sections 12 of the Juvenile Justice (Care and Protection of Children) Act, it is evident that the Juvenile Justice Board as well as the Appellate Court are required to look into aspects which may be relevant with reference to three grounds, namely, likelihood of association with criminals, likelihood of moral, physical or psychological danger and likelihood to defeat ends of justice, rather than searching into merits of the case or nature and gravity of allegation. In this case, without there being such finding or report of social investigation, only nature and gravity of offence has been taken into consideration while considering bail application of this appellant which is contrary to statutory mandate of Section 12 of Juvenile Justice Act, Interest of children is paramount consideration in such cases. In absence of adverse report of social investigation on those three accounts, the bail should not be denied to a juvenile in conflict with law.

Considering the aforesaid facts, this revision application is allowed. The order dated 04.06.2021 passed by learned Additional Sessions Judge Ist, Nalanda at Biharsharif in Children Case No. 07 of 2021 arising out of Sarmera PS Case



No. 72 of 2020, is set aside.

Let the petitioner above-named, 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 the learned Additional Sessions Judge Ist, Nalanda at Biharsharif in Children Case No. 07 of 2021 arising out of Sarmera PS Case No. 72 of 2020 with further condition that the parent or guardian of the petitioner shall file an affidavit for the good behaviour and child's well being for a period of one year.

(Prabhat Kumar Singh, J)

vinita/-

U		T	
---	--	---	--

