

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.401 of 2020

Arising Out of PS. Case No.-470 Year-2019 Thana- JAHANABAD District- Jehanabad

HARICHARAN BIND, S/o Shiwnandan Bind Resident of Village-Isebigha, P.S-Karauna (O.P) (Jehanabad), District-Jehanabad. (under the guardianship of Anil Bind Aged, about 33 years, male, son of Dinesh Bind, Resident of Village-Mathavamath,P.S-Dhanaruwa, District-Patna.)

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sinha, Advocate
For the Respondent/s : Mr. Rajendra Prasad Nat, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 22-02-2021 Heard Mr. Ajay Kumar Sinha, learned Counsel for the petitioner and Mr. Rajendra Prasad Nat, learned Additional Public Prosecutor for the State.

This Criminal Revision application has been filed against the Judgment and order dated 23.05.2020 passed by Sri Dharmendra Kumar Jaiswal, Ist Addl. District & Sessions Judge, Jehanabad in Cr. Appeal (Juvenile) No. 13 of 2020, 07 of 2020, whereby the order dated 03.01.2020 passed by Juvenile Justice Board, Jehanabad, arising out of Jehanabad P.S. Case No.470 of 2019 has been confirmed and prayer for bail of the petitioner has been rejected.

The allegation against the petitioner, as per the First Information Report lodged by informant, Vishnu Bind, on



22.06.2019 alleging therein that the sister of the informant, Seema Devi, aged about 20 years, was married with the petitioner about 13 months ago. It has further been alleged that after some time, the petitioner along with other family members started demanding gold chain and motorcycle as a dowry and due to non-fulfillment of the demand, the sister of the informant has been killed by the petitioner and others and dead body was disposed secretly.

Learned counsel for the petitioner submits that petitioner was declared juvenile vide order dated 27.08.2020 passed by learned Juvenile Justice Board, Jehanabad after coming to the conclusion that the petitioner was minor at the time of alleged occurrence and his age was assessed as 15 years on the date of occurrence. Learned counsel further submits that bail application of the petitioner was rejected by Juvenile Justice Board, Jehanabad vide order dated 03.01.2020 against which the petitioner filed an appeal before learned Ist Additional District and Sessions Judge, Jehanabad which has been dismissed by the impugned order dated 23.05.2020 against which the present revision application has been filed. Learned counsel next submits that the learned Court below while rejecting the appeal of the petitioner erroneously arrived at the conclusion that if the



petitioner would be released on bail, he may again go to a bad company inasmuch as from perusal of the social background report as well as social investigation report, it would be evident that the behaviours of the juvenile, i.e., petitioner was good and he had not fallen in a bad company. Learned counsel for the petitioner relies upon Section 3(i)(iv)(v) and (xiv) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as 'the Act') which are quoted hereinbelow as follows :-

“3. (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.

(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.

(v) *Principle of family responsibility:-* The primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents, as the case may be.

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



Learned counsel referring to above mentioned provisions submits that as per the scheme of the Act, there is **presumption of innocence** of a child in conflict with law and all decisions regarding the child shall be taken in consonance with the **principle of best interest** of the child. Learned counsel further submits that the **principle of family responsibility** and **principle of fresh start** have also been recognized under the Act. Learned counsel further relied upon Section 12 of the Act, which is quoted 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 (2 of 1974) 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 subsection (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 may be, 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."

In reference to Section 12 of the Act, learned counsel submits that bail to a child in conflict with law is a rule and



denial is exception.

Learned counsel in the aforesaid background submits that the learned court below has failed to consider the scheme of the Act and has committed material irregularity in arriving at the conclusion that since the petitioner may again go to a bad company refused to release the petitioner on bail which amounts to defeating the ends of justice.

This court by order dated 20.01.2021 had called for the social background report and social investigation report of the petitioner in the matter, which are on record. From perusal of the report, it appears that the Investigating Officer upon detailed inquiry has come to the conclusion that during course of investigation, it has come to light that there is no other case pending against the petitioner. It has also come in the social investigation report that all the friends of the juvenile, i.e., petitioner, residing nearby building have informed that the behaviour of the juvenile with all his friends and others is good. It has also been observed by the Inquiry Officer that on the basis of information given by the neighbours, the behaviour of the juvenile, i.e, the petitioner is good. The legal-cum-Probation Officer in his inquiry report has further mentioned that the parents of the juvenile stated that there could not be repetition of



such incidents. The Probation Officer has recommended that keeping in view the nature, circumstances and kind of accusation, if the juvenile in conflict with law is found guilty, then under the provision of J.J.(C& P) Act, 2015, the juvenile may be given one chance after counselling, keeping him under the protection of his parents.

On the other hand, learned counsel for the State submits that from perusal of Section 12 of the Act, it appears that bail is a matter of right to the petitioner and denial is exception and in view of the fact that the juvenile, i.e., the petitioner was not having criminal antecedent and there was no possibility that the petitioner would fall in bad company, this Court may consider to release the petitioner on bail in the best interest of the child.

From perusal of the records, it appears that petitioner is in custody since 22.08.2019.

Having regard to the submissions made by the parties, on perusal of the impugned order and judgment and taking into consideration material on record and legal provisions coupled with the social background report and social investigation report, I am of the considered opinion that the learned court below has committed material irregularity in arriving at the



conclusion that grant of bail to the petitioner will amount to defeating the ends of justice.

Accordingly, the judgment and order dated 23.05.2020 passed in Cr. Appeal (Juvenile) No. 13 of 2020, 07 of 2020 in connection with Jehanabad P.S. Case No.470 of 2019, by learned 1st Additional District and Sessions Judge, Jehanabad and consequently the order dated 03.01.2020 passed by learned Juvenile Justice Board, Jehanabad are hereby set aside and the petitioner, Haricharan Bind, 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, Jehanabad / court concerned in connection with Jehanabad P.S. Case No.470 of 2020, on the following condition:-

(i) that one of the bailors shall be the brother-in-law of the petitioner under whose guardianship the present application has been filed before this Court.

(Anil Kumar Sinha, J.)

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