

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.522 of 2021

Arising Out of PS. Case No.-491 Year-2019 Thana- BEGUSARAI TOWN District- Begusarai

SHAKTI KUMAR @ SHAKTI @ SATYAM KUMAR Son of Sri Sagar Sah
Resident of Village - AShok Nagar, Pokhariya, ward no. 39, P.S. Town,
District - Begusarai through his Natural Guardian Mother Namely Gita Devi,
Wife of Sri Sagar Sah , aged about 42 years, at present resident of Ward No.
39, Bishunpur, P.S. Town, District - Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Udai Shankar Singh
For the Respondent/s : Mr.Uday Pratap Singh

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

3 29-10-2021 Heard learned counsel for the petitioner and learned
APP for the State through virtual court proceeding.

This is an application u/s 102 of the Juvenile Justice
(Care and Protection of Children) Act, 2015, challenging the
order of lower appellate court dated 15.01.2021 passed in Cr.
Appeal No.75/2020 as well as order dated 22.10.2020 passed
by the learned Principal Magistrate, Juvenile Justice Board,
Begusarai in connection with Begusarai Town P.S. Case
No.491 of 2019, corresponding to J.J.B. No.134/2020
registered under section 392 of the IPC.

The petitioner was declared juvenile by the Juvenile
Justice Board and the order got finality.



The prosecution case, as alleged by the informant is that on 21.08.2019, while he was returning after closing his shop, two persons dashed his motorcycle and thereafter, on the point of pistol, snatched his golden chain, Rs.20,000/- from his pocket and a Titan watch. Both the accused persons fled away thereafter.

Learned counsel for the petitioner submits that the petitioner is quite innocent and has committed no offence whatsoever but he has been falsely dragged in this case due to ulterior motive. He is not named in the FIR nor apprehended on spot. His named transpired in the case on the confessional statement of the co-accused. The J.J.B. has found his age 14 years 3 months and 23 days on the alleged date of occurrence and declared him Juvenile. It is further submitted that there is no direct evidence against the petitioner and both the Courts below 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 Courts below have refused the prayer on this ground. The petitioner has two criminal antecedent and is in observation home since 30.09.2019.

On the last occasion, case diary as well as social investigation report of the Probation Officer were called for.

The same has been received. Perused the social investigation report, which does not indicate that the petitioner has any behaviour issue or in contact with any bad element in the society prior to the present occurrence. Both the learned court below without appreciating the true object of section 12 of the Juvenile Justice Act rejected the prayer for bail without reasonable ground believed that the petitioner is in contact with some bad element. Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 is quoted hereunder:

“12. 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.”

Considering the facts and circumstances of this case, since both the Courts below have 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 both the orders are fit to be set aside.

Considering the totality of the facts and circumstances as discussed above, this application is allowed and the aforesaid orders dated 15.01.2021 and 22.10.2020 are 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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