

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.516 of 2021**

Arising Out of PS. Case No.-923 Year-2020 Thana- TURKAULIYA District- East
Champaran

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Nitesh Kumar, S/O Bramhanand Ray, R/O Village-Jaisinghpur, Chiutahi, P.S-
Turkauliya, District-East Champaran, under natural guardianship of his father,
Bramhanand Ray, S/O Ramblith Ray, R/O Village-Jaisinghpur, Chiutahi, P.S-
Turkauliya, District-East Champaran

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Abhishek Kumar, Advocate
For the Respondent/s : Mr.Ram Anurag Singh, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 21-09-2021 Heard learned counsel for the petitioner and the

learned counsel appearing on behalf of the State.

The present revision application has been preferred against the order dated 25.06.2021 passed in Cr. Appeal No.09 of 2021 by learned 1st Additional Sessions Judge, East Champaran, Motihari, affirming the order dated 20.03.2021 passed by learned Juvenile Justice Board, Motihari in connection with Turkauliya P.S. Case No.923 of 2020 registered under Sections 272, 273/34 of the Indian Penal Code and Sections 34(a), 41 of the Bihar Prohibition and Excise Act, 2016, by which the prayer for bail made on behalf of the petitioner has been rejected.

2200 litres spirit has been recovered from a pick-up



van. The petitioner has been apprehended in course of recovery.

Learned counsel for the petitioner submits that the Driver of the vehicle has fled away. The petitioner has been arrested, though he has no concern either with the vehicle or the recovered spirit from the vehicle. It is a case of false implication. Petitioner has become a victim of circumstances. The Juvenile Justice Board has assessed the age of the petitioner to be 15 years 06 months and 23 days on the alleged date of occurrence. Being a juvenile in conflict with law in terms of Section 12 of the Juvenile Justice (Care and Protection of Children) Act (hereinafter referred to as “the Act”), the petitioner is legally entitled to be released. He, however, has been in custody since 26.12.2020.

Learned counsel for the petitioner has drawn the attention of the Court towards the consideration of the Juvenile Justice Board in respect of Social Investigation Report submitted in the case. The appellate order passed by the 1st Additional Sessions Judge, East Champaran, Motihari, as per the submission of the petitioner’s counsel, does not take into account the Social Investigation Report.

This Court has considered the said submissions, which have to be viewed in the background of the statutory



provision for bail under Section 12 of the Act, which mandates release of the juvenile in conflict with law.

The release can be refused only on existence of exceptional circumstances contained in the proviso to Section 12 of the Act. From the order of the Principal Magistrate, Juvenile Justice Board, wherein the Social Investigation Report has been considered, it is manifest that the exceptions contemplated in the proviso have not been reported in the Social Investigation Report. Prayer for bail, however, has been rejected based on the gravity of the allegations and the circumstances of poverty, from which the petitioner has come. The relevant conditions, based on which bail can be refused to a juvenile, contained in the proviso to Section 12 of the Act clearly do not exist. There is no material to arrive at a conclusion that the petitioner on his release is likely to come in association of any known criminals or be exposed to any physical, psychological or moral danger.

It is the submission of the learned counsel that it is the first offence of the petitioner and prior to this case, there is no criminal antecedents.

Learned APP has opposed the prayer for bail.

Having considered the rival submissions, this Court



allows the prayer for release, subject to undertaking being given by the father of the petitioner.

Let the above named petitioner, a juvenile, be released on bail on his furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Juvenile Justice Board, East Champaran, Motihari, in connection with Turkauliya P.S. Case No.923 of 2020, in favour of his father, who shall keep him under his guardianship and produce him as and when required and also subject to the condition that one of the bailors of the petitioner shall be his father who at the time of filing of the bonds, shall also give an undertaking that he will take proper care of the petitioner and in case the petitioner does not act as per his advice, he shall report the matter to the Officer-in-Charge of the concerned police station and further during the period of bail, the petitioner will be under the supervision of concerned Probation Officer.

In the result, the revision application is allowed and the impugned order dated 25.06.2021 is set aside.

This Court would expect that the petitioner's counsel would honour his undertaking in the instant proceedings regarding supply of the requisite court fee etc. within two weeks



from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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