

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.538 of 2021**

Arising Out of PS. Case No.-114 Year-2021 Thana- BEGUSARAI MUFFASIL District-
Begusarai

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Sunny Kumar @ Sunny Gautam Kumar Son of Subodh Kumar Resident of Village - Mohanpur, P.S.- Muffasil, District - Begusarai. Under the guardianship of Rahul Kumar (Maternal Uncle of the petitioner), aged about 25 years, Son of Ashok Singh, Resident of Village - Madhurapur, P.S. - Teghra, District - Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar Singh
For the Respondent/s : Mr.Ram Bilash Roy Raman

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**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

2. 27-09-2021 Heard learned counsel for the parties.

2. This criminal revision application has been filed challenging the legality and correctness of order dated 30.06.2021 passed in Cr.Appeal No. 25/2021 by learned 1st Additional Sessions Judge-cum-P.O., Children Court, Begusarai confirming the order dated 01.04.2021 passed by Principal Magistrate, J.J.Board, Begusarai in J.J.B. Case No. 75/2021 (arising out of Mufassil P.S. Case No. 114/2021) whereby, the bail petition of petitioner was rejected.

3. As per the prosecution case, on the alleged date and time of occurrence, while father of the informant was coming home, all the FIR named accused persons including this



petitioner surrounded him and started assaulting him. It is further alleged that when informant and other family members came to save him (informant's father), the accused persons also assaulted them by *lathi*, bamboo and iron rod. The petitioner is alleged to have inflicted injuries on the brother of informant by *lathi*.

4. It is submitted on behalf of the petitioner that petitioner has been falsely implicated in this case due to previous enmity between the families of both sides. It is further submitted that petitioner has been declared juvenile on 09.03.2021 by the Juvenile Justice Board, Begusarai and his age has been assessed as 15 years 9 months and 17 days. It is further submitted that the bail application of the petitioner (CICL) has been decided by the court below on merit and nature & gravity of the offence, whereas, once petitioner has been declared juvenile, his case was required to be considered in the light of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 {hereinafter referred to as the 'Act'}. Petitioner has got clean antecedent and is in custody since 23.02.2021.

5. However, learned A.P.P. for the State opposed the revision application and submitted that this petitioner has



actively participated in the occurrence and was one of the assailant of the deceased and as such, the impugned orders are just and proper and do not require any interference by this Court.

6. While dealing with the case of juvenile (child in conflict with law), the Court should be guided by three fundamental principles, which are as follows:

- (a) principle of presumptions of innocence,***
- (b) principle of best interest of the child, and***
- (c) principle of safety of the child.***

7. When an application under Section 12 of the Act is filed before the Board for grant of bail, approach has to be different than the approach of the court while considering application for grant of bail under Section 437, 438 and 439 of the Cr.P.C.

8. It is settled law that a juvenile has to be released on bail unless the court has reasonable ground to believe that his release will bring him into association of some known criminals or will expose him to moral, physical or psychological danger or his release would defeat the ends of justice.

9. Rejection of application for grant of bail by making a detailed enquiry into the nature and gravity of allegation would be completely contrary to statutory provision of Section



12 of the Act.

10. In this case, no reasonable ground has been mentioned by the court below for believing that the release of the petitioner (CICL) is likely to bring him into association of known criminals or any material has been brought on record by the prosecution for deciding whether any ground has been made out to reject the application, which has been mentioned under Section 12 of the Act. Once those grounds are not made out, only consequence is release of juvenile.

11. Considering the aforesaid facts & circumstances as well as the position of law, as stated above, the order dated 30.06.2021 passed in Cr.Appeal No. 25/2021 by learned 1st Additional Sessions Judge-cum-P.O., Children Court, Begusarai and order dated 01.04.2021 passed by Principal Magistrate, J.J.Board, Begusarai in J.J.B. Case No. 75/2021 (arising out of Mufassil P.S. Case No. 114/2021) are, hereby, set aside and this criminal revision petition is allowed.

12. Accordingly, the above-named petitioner 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 learned Principal Magistrate, J.J.Board, Begusarai in J.J.B. Case No. 75/2021 (arising out of Mufassil



P.S. Case No. 114/2021), subject to condition that *one of the bailor would be parent / family member of the petitioner, who would file an affidavit giving an undertaking to the effect that he will take care of good behaviour and child’s well-being and will not allow him to go in the company of bad elements.*

(Prabhat Kumar Singh, J.)

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