

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.814 of 2019

Arising Out of PS. Case No.-747 Year-2018 Thana- BHABHUA District- Kaimur (Bhabua)

RAVINDRA KUMAR @ RAVINDRA KANAUIYA Son of Ramavtar Kanauiya Resident of Village- Pauni, Police Station- Sakaldiha, District- Chandauli (U.P.). under Guardianship of his father names as Ramavtar Kanauiya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rajiv Ranjan

For the Respondent/s : Mr. Shailendra Kumar Singh

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

4 07-04-2021 Heard the parties through virtual court
proceedings.

This is an application under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015, challenging the order of lower appellate court dated 04.04.2019 passed Children Court Case No. 4 of 2019 (arising out of Bhabhua P.S. Case No. 747 of 2018) registered under Section 302/34, 120 (B) of the Indian Penal Code and, whereby both the Courts below refused the prayer for bail to the petitioner.

Petitioner along with other co-accused are said to have called the husband of the informant at the house of



Sonu Rajak where co-accused Santosh Sah and Ajay Sah caught hold of his husband and co-accused Sonu Rajak stabbed on the stomach of the husband of the informant, as a result, he fell down and died on the spot. The reason behind the occurrence is said to be the land dispute going between the parties.

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

Learned counsel for the petitioner submits 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 under Section 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 Courts below have refused the prayer on this ground.



Learned counsel for the petitioner further submits that similarly situated co-accused, namely, Santosh Sah has been granted anticipatory bail by a co-ordinate bench of this Court *vide* order dated 04.04.2019 passed Cr. Misc. No. 20832 of 2019.

This Court had called for a report from the Probation Officer which is available on the record and the same shows that petitioner is a student having no adverse reporting against him.

Since both the learned 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 the circumstances as discussed above, this application is allowed and the impugned order dated 04.04.2019 is 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)

GAURAV S./-

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