

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.12 of 2021

Arising Out of PS. Case No.-1 Year-2019 Thana- MANJHAGARH District- Gopalganj

PAWAN SAH @ PAWAN KUMAR, aged about- 17 years (male) through his legal Guardian (father) Paras Sah @ Paras Nath Sah, S/o Kanhaiya Sah, Resident of Village - Jhanjawan, P.S.- Manjhagarh, District - Gopalganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Rajesh Roy, Adv.
For the Respondent/s : Ms. Anita Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 08-03-2021 Heard the learned counsel for the petitioner and Ms. Anita Kumari Singh, learned APP for the State.

The present revision application has been preferred against the order dated 19.10.2020 passed by the learned court of 1st Additional Sessions Judge, Gopalganj in Criminal Appeal No. 19 of 2020 as well as the order dated 16.09.2020 passed by learned court of Juvenile Justice Board, Gopalganj in J.E. No. 57 of 2020, arising out of Manjhagarh P.S. Case No. 01 of 2019, G.R. No. 13



of 2019, whereby and whereunder the learned Juvenile Justice Board, Gopalganj has rejected the prayer for bail of the petitioner under Juvenile Justice (Care & Protection of Children) Act, which the learned appellate court has upheld under the order dated 19.10.2020.

The case of the prosecution in brief is that the accused persons had formed an unlawful assembly at the door of the informant and were playing obscene songs, whereafter protest was made by the brother of the informant resulting in the said accused persons having fired gunshots on the brother of the informant and it is further alleged that the co-accused person, namely, Raj Kumar Mahto, had fired upon him resulting in him sustaining knee injury. It is further alleged that when the informant had come to rescue his brother, he was also assaulted by the accused persons.

The learned counsel for the petitioner has submitted that the petitioner is innocent and he has been falsely implicated in the present case.



The learned counsel for the petitioner has further submitted that the petitioner is languishing in observation home since 29.05.2020. The learned counsel for the petitioner has also submitted that there is no allegation of any sort of specific overt act qua the petitioner herein, hence, he is liable to be granted the privilege of bail inasmuch as he has been remanded in the present case from one other criminal case pending against him in which he has already been granted bail by this Court. Lastly, it is submitted by the learned counsel for the petitioner that the petitioner has been declared to be a juvenile, as on the date of occurrence, by the learned court of Juvenile Justice Board, Gopalganj, by an order dated 04.09.2020.

Per contra, the learned APP for the State has vehemently opposed the prayer for bail.

Having regard to the facts and circumstances of the case, considering the submissions made by the learned counsel for the petitioner and taking into account the materials available on record as also those available in the case dairy, this Court



finds that there is minuscule evidence available in the case diary so as to connect the petitioner with the alleged crime and moreover, it has not been alleged that the petitioner had engaged in any sort of overt act, hence, I deem it fit and appropriate to grant the privilege of bail to the petitioner herein.

Consequently, this Court finds that the impugned order dated 19.10.2020 passed by the learned court of 1st Additional Sessions Judge, Gopalganj in Criminal Appeal No. 19 of 2020 as well as the one dated 16.09.2020 passed by learned court of Juvenile Justice Board, Gopalganj in J.E. No. 57 of 2020, arising out of Manjhagarh P.S. Case No. 01 of 2019, G.R. No. 13 of 2019, suffers from failure to exercise jurisdiction vested in law, therefore, there is an error apparent on the face of the record and moreover, the impugned orders depict non-consideration of the relevant materials available on record as also the provision of law.

Accordingly, the impugned the order dated 19.10.2020 passed by the learned court of 1st



Additional Sessions Judge, Gopalganj in Criminal Appeal No. 19 of 2020 as well as the one dated 16.09.2020 passed by learned court of Juvenile Justice Board, Gopalganj in J.E. No. 57 of 2020, arising out of Manjhagarh P.S. Case No. 01 of 2019, G.R. No. 13 of 2019, are set aside.

Thus, the petitioner herein is directed to be released from the Remand Home on his furnishing bail bond of Rs. 10,000/- (Rs. Ten Thousand) with two sureties of like amount each to the satisfaction of learned Juvenile Justice Board, Gopalganj in Juvenile Enquiry No. 57 of 2020, arising out of Manjhagarh P.S. Case No. 01 of 2019, G.R. No. 13 of 2019, subject to the condition that:-

One of the bailors of the petitioner shall be his father/ mother who at the time of filing of the bonds, shall also give an undertaking that he/ she will take good care of the petitioner and in case, petitioner does not act as per his/ her advice, he/ she shall report the matter to the officer-in-charge of the concerned



police station and further during period of
bail, the petitioner will be under the
supervision of concerned Probation Officer.

This revision application stands allowed on
the aforesaid terms.

(Mohit Kumar Shah, J)

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