

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.22 of 2021

Arising Out of PS. Case No.-158 Year-2020 Thana- GOPALGANJ TOWN District-
Gopalganj

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PAWAN KUMAR S/o Kanhaiya Sah THROUGH HIS LEGAL GUARDIAN
(FATHER) PARAS SAH @ PARAS NATH SAH, RESIDENT OF
VILLAGE- JHANJAWAN, P.S.- MANJHAGARH, DISTRICT-
GOPALGANJ

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Roy, Advocate

For the Respondent/s : Mr. Ashok Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

2 30-01-2021 The present revision petition has been filed against the order dated 19.10.2020 passed in Criminal Appeal No. 20 of 2020 passed by the learned 1st Additional Sessions Judge, Gopalganj, whereby and whereunder the appeal has been dismissed and the order of the Juvenile Justice Board, Gopalganj dated 16.09.2020 passed in J.E. No. 48 of 2020 arising out of Gopalganj Town P.S. Case No. 158 of 2020 under Sections 399, 402 and 414 of the Indian Penal Code, Sections 25(1-b)a, 26 and 35 of the Arms Act and Sections 8(c)/21(a) of the N.D.P.S. Act, rejecting the prayer of the petitioner for grant of bail, has been upheld.

The case of the prosecution in brief is that on the



alleged date and time of occurrence, the informant is stated to have received information that 6-7 persons are standing near the shop of one Gauri Sah and are making plans to commit a dacoity, whereafter the police force had reached the said place of occurrence and had apprehended four persons, however, the petitioner and one other person are stated to have escaped. It is further alleged that upon the said apprehended miscreants having been interrogated and search being made, one loaded pistol, some live cartridges and 13 sachets containing 7.2 grams of smack was recovered. Thereafter, the house of the petitioner is stated to have been raided and the petitioner was arrested, however, no incriminating article was recovered from his house.

The learned counsel for the petitioner has submitted that the petitioner has already been declared juvenile by an order dated 22.06.2020 as on the date of occurrence i.e. 07.03.2020 inasmuch as he has been found to be 17 years 11 months and 18 days old as on the said date. The learned counsel for the petitioner has further submitted that a bare perusal of the FIR would show that no case is made out against the petitioner herein for the offences alleged and he has been falsely roped in the present case merely on suspicion. It is further submitted that



the parents of the petitioner are ready to undertake to take proper care of the petitioner so that he does not fall in bad company.

Having heard the learned counsel for the parties and having perused the materials on record, this Court finds from a bare perusal of the FIR that prima facie no case is made out for the offences alleged against the petitioner herein and moreover he has been roped in the present case merely on suspicion. The petitioner has been declared to be a child in conflict with law by an order dated 22.06.2020, being aged about 17 years 11 months and 18 days as on the date of occurrence, by the Juvenile Justice Board.

This Court further finds from a bare perusal of ***Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015*** that a child in conflict with law is required to be released on bail ordinarily, except in case, it appears that there are requisite grounds to believe that the release of the child in conflict with law is likely to bring him in association with any unknown criminal or expose him to moral, physical or psychological danger or would defeat the ends of justice, however in the present case, this Court does not find that any of such factors are present so as to impede the grant of bail to the petitioner herein. This Court further finds that the impugned order dated 19.10.2019 suffers from a total non-consideration of



the actual facts and circumstances of this case, as discussed herein above in the preceding paragraphs, hence is based on incorrect appreciation of the facts as also law and moreover, the same suffers from apparent error on the very face of the same.

Considering the facts and circumstances of the case and the materials available on record as also taking into account the arguments advanced by the learned counsel for the petitioner coupled with the reasoning stated herein above in the preceding paragraphs, I deem it fit and proper to allow the present petition, consequently the order dated 19.10.2020 passed by the learned 1st Additional Sessions Judge, Gopalganj in Criminal Appeal No. 20 of 2020 as also the order dated 16.09.2020 passed by the Juvenile Justice Board, Gopalganj in J.E. No. 48 of 2020 arising out of Gopalganj Town P.S. Case No. 158 of 2020, are set aside.

Accordingly, 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 connection with Juvenile Enquiry No. 48 of 2020 arising out of Gopalganj Town PS Case No. 158 of 2020, 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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