

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 62 of 2021

Arising Out of PS. Case No.-84 Year-2019 Thana- KOPA District- Saran

MAKSUD SAH S/o Nasruddin Shah R/o village- Anwal, P.S.- Kopa, District- Saran, (Under the Gardianship of Mausì)

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Nagendra Sharma S/o Late Kapildev Sharma R/o village- Anwal, P.S.- Kopa, District- Saran

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr Manoj Kumar, Advocate

For the Respondent/s : Mr Pramod Kumar Pandey, APP

CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL ORDER

9 31-08-2021 This case has been taken up today for consideration through Video Conferencing.

Heard learned counsel for the petitioner and the learned Additional Public Prosecutor (for brevity, APP) appearing for the State of Bihar.

The informant has alleged that his son was abused by many accused persons including the instant petitioner. Thereafter, it is alleged that after some time, he has been killed as sequel to the earlier altercation.

Learned counsel for the petitioner draws attention of the Court towards the allegations made in the First Information Report (for brevity, *FIR*). Since earlier incomplete FIR had been annexed to the application, he has forwarded a photostat



copy of the entire FIR. Drawing attention of the Court towards the Court towards second page of the FIR, he submits that the specific allegation of stabbing has been alleged against co-accused Naushad and Shamsheer Ali. Against the petitioner, there is no overt allegation. At best, he is member of the mob in the earlier incident wherein the informant's son was abused. He further submits that the petitioner has already been declared a juvenile and others, similarly situated as the petitioner including Imtiyaz Alam @ Imtiyaz Ali, has been allowed bail by this Court in Criminal Revision No 189 of 2020. Petitioner has been in custody since 02.09.2019. It is further submitted that the social investigation report also recommends that the petitioner needs not be kept further in custody.

Prayer was made on behalf of the petitioner for his release before the Juvenile Justice Board, Saran at Chapra. However, the prayer was rejected. Against the same, the petitioner approached the Court of Additional Sessions Judge V, Saran at Chapra by filing Cr Appeal No 5 of 2020. The same has also been rejected under order dated 16.10.2020. Accordingly, the instant application has been filed seeking the petitioner's release on bail.

The fact of the petitioner's juvenility stands



established. The requirement of Section 12 of the Child (Care and Protection) Act (for brevity, *the Act*) is quite clear. The order rejecting the petitioner's prayer for release is not based on any valid consideration as per exceptions provided under Section 12 of the Act.

Learned APP has opposed the prayer for bail. He, however, is not in a position to dispute the recommendation of the Social Investigation Report, as submitted by the petitioner's counsel.

In view of the aforesaid circumstances, the petitioner's prayer for release on bail is allowed. Let the petitioner above named be released on bail on his furnishing bonds of Rs 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of Juvenile Justice Board, Saran at Chapra in JE No 347 of 2019 arising out of Kopa Police Station Case No 84 of 2019.

The Juvenile Justice Board, while releasing the petitioner, will take an undertaking from his *Mausi* regarding petitioner's proper guidance and safe keeping.

(Madhuresh Prasad, J)

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