

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.36 of 2022

Arising Out of PS. Case No.-229 Year-2020 Thana- MAHNAR District- Vaishali

XXX S/o Takeshwar Nath Thakur Resident of Village- Vishunpur, P.S.-
Mahnar, Dist- Vaishali.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Satish Kumar Sinha, Advocate
For the Opposite Party : Mr. Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

7 27-09-2022 Heard learned counsel for the petitioner and Mr.
Akhileshwar Dayal, learned APP for the State.

Petitioner in the present case is seeking setting aside of the impugned order dated 21.06.2021, passed by the Principal Magistrate, Juvenile Justice Board, Hajipur, Vaishali, in connection with Mahnar P.S. Case No. 229 of 2020, instituted under Section 302, 120B of the Indian Penal Code.

He has been declared juvenile taking his date of birth as 19.06.2006. On the alleged date of occurrence, i.e., on 30.07.2021, he has been found aged about 14 years 1 month and 11 days. This Court, having noticed that there was some interpolation in the date of birth column of the school admission register in front of the name of the petitioner, directed the District Education Officer, Vaishali to examine the school



admission register and submit a report.

Learned counsel for the petitioner has placed before this Court the counter affidavit filed on behalf of the State containing the report of the District Education Officer, Vaishali. He has reported that the headmaster of the school has informed that the said over-writing was corrected by the then Block Education Officer, Mahnar on 24.09.2015. The District Education Officer has submitted in his report that the signature made by the Block Education Officer, Mahnar on 24.09.2015 has been made without seal which makes it doubtful. After proper verification of the admission register and the transfer certificate of the petitioner, the District Programme Officer (Secondary Education), Vaishali has submitted his report vide memo no. 387 dated 02.09.2022 in which also he has mentioned that there is some interpolation of the over-writing in the date of birth of the petitioner.

A rejoinder has been filed on behalf of the petitioner. With his rejoinder, the petitioner has brought on record the marksheet of the Bihar School Examination Board showing that the petitioner had appeared in the Secondary School Examination in the year 2021 on the basis of his date of birth being 19.06.2006 mentioned in the high school register of



Jagdish Higher Secondary School, Mahnar, Vaishali. He has further brought on record the extract of Army Medical Corp record dated 04.06.2014 (Annexure '3') to the rejoinder to show that the father of the petitioner being an ex-army man has in his service record shown the date of birth of his sons and daughter. The date of birth of this petitioner is mentioned there as 19th June, 2006. This document is dated 4th June, 2014, therefore, the submission is that much before the present occurrence, the date of birth as declared by the father of the petitioner in his service book is the same as one which is mentioned in the first school admission register.

Learned counsel submits that in the given facts and circumstances of the case where there is no cogent material on record showing beyond doubt that the petitioner has concealed his age and had given a wrong date of birth, this Court may accept the order of the learned Juvenile Justice Board declaring the petitioner a juvenile and consider this application on its own merit.

Learned APP for the State has opposed the prayer of the petitioner. It is submitted that some doubts have been expressed by the District Education Officer in his report as regards the date of birth mentioned in the school admission



register and it is said to be interpolated. It is further submitted that in his social investigation report, it has come that the petitioner had fallen in bad company.

Be that as it may, though, this Court finds that the report of the District Education Officer also mentions about the interpolation made in the school admission register, but at the same time the genuineness of the school transfer certificate showing the same date of birth has not been doubted and no other clinching material has been placed before this Court to take up this issue further to conclude on the same as regards interpolation. This Court is of the view that in the kind of materials present, the benefit of juvenility which has been given by the learned Juvenile Justice Board cannot be withdrawn.

Thus, this Court has considered the prayer for bail of the petitioner on its own merit taking him a juvenile.

The FIR in this case has been lodged against unknown. The name of the petitioner has transpired in the confessional statement extracted in police custody. It is stated that the petitioner is in observation home since 20.03.2021 and his father is also ready to stand as surety and furnish an undertaking that if released on bail, the petitioner shall not be allowed to come in contact of any bad element and in case the



petitioner indulges in any unlawful act, he will inform it to the jurisdictional police station.

Having regard to the facts and circumstances of the case, the submissions noted here-in-above and upon finding that the petitioner has been adjudged juvenile, he is in the observation home since 20.03.2021 and further that his father is also ready to stand as surety and furnish an undertaking that if released on bail, the petitioner shall not be allowed to come in contact of any bad element and in case the petitioner indulges in any unlawful act, he will inform it to the jurisdictional police station as also following the spirit of Section 12 of Juvenile Justice (Care and Protection of Children) Act, 2015 and in view of the exceptions carved out by the Hon'ble Division Bench of this Court in the case of **Lalu Kumar and Ors. Vs. The State of Bihar** reported in **2019(4) PLJR 833** that classification of the offences under the bailable and non-bailable sections would not be relevant for purpose of grant of bail to a juvenile and the prayer for bail of a juvenile may be rejected only under one of the three conditions as under:-

- “(i) The release is likely to bring that person into association with any known criminal;
- (ii) The release is likely to expose the said person to moral or physiological danger; and
- (iii) The release would defeat the ends of justice.”



this Court sets aside the impugned order and directs release of the petitioner above named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Hajipur, Vaishali in connection with Mahnar P.S. Case No.229/2020.

One of the bailors should be the father of the petitioner and he will also furnish an undertaking that if released on bail, the petitioner shall not be allowed to come in contact of any bad element and in case the petitioner indulges in any unlawful act, he will inform it to the jurisdictional police station.

The Probation Officer shall keep on visiting the place of the petitioner and shall submit periodical report to the Juvenile Justice Board, Hajipur, Vaishali as regards the conduct of the petitioner. If anything adverse is found against the petitioner, the same will also be reported to the Board for necessary action.

The application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

