

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.83 of 2022

Arising Out of PS. Case No.-149 Year-2021 Thana- MAIRWAN District- Siwan

XXX, Son of Sri Ashok Bari, Resident of Village- Shivpur Mathiya, P.S.-
Mairwa, District- Siwan, PIN- 841239.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner/s	:	Mr. Rajendra Narayan, Sr. Advocate Ms. Anju Kumari, Advocate
For the Respondent/s	:	Mr.Nitya Nand Tiwary, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 12-07-2022 Heard learned counsel for the petitioner and Mr.
Nitya Nand Tiwary, learned APP for the State.

This revision application is directed against the order dated 27.11.2021 passed by learned Children's Court-cum- 1st Additional Sessions Judge, Siwan in Cr. Appeal No. 29 of 2021, Registration No. 36 of 2021 whereby and whereunder the order dated 03.09.2021 rejecting bail of the petitioner by learned Juvenile Justice Board, Siwan in J.E. No. 193 of 2021 arising out of Mairwa P.S. Case No. 149 of 2021 registered for the offences punishable under Sections 302, 120B & 34 of the Indian Penal Code has been affirmed.

Learned counsel for the petitioner submits that the petitioner has been declared juvenile by the Juvenile Justice



Board, Siwan aged about 16 years, 05 months and 06 days on the alleged date of occurrence. He has remained in the observation home since 14.06.2021 and his father is ready to stand as a surety and furnish an undertaking that if released on bail the petitioner shall not be allowed to indulge in any unlawful act and all care will be taken that he does not fall in the company of anti-social elements and in case the petitioner indulges in any unlawful act, he will inform it to the jurisdictional police station.

It is further submitted that in the case of **Lalu Kumar and Ors. versus The State of Bihar** reported in **2019 (4) PLJR 833** the Hon'ble Division Bench of this Court in paragraph '84' of the judgment has carved out three exceptions in which prayer for bail of a juvenile may be denied which are 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 physiology danger; and
- (ii) The release would defeat the ends of justice.”

Learned APP for the State has opposed the prayer for bail of the petitioner.

Having regard to the submissions and the materials available on the record showing that the name of the petitioner



has transpired in the statement of co-accused Nikhil. The said Nikhil happened to be the friend of Aryan Kumar who is another co-accused and has been granted bail by this Court in Cr. Appeal (SJ) No. 921 of 2022, the petitioner has no criminal antecedent, he has remained in the observation home since 14.06.2021, keeping in view the spirit of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and keeping in view the exceptions carved out by the Hon'ble Division Bench of this Court in the case of **Lalu Kumar (supra)** as also his father is ready to stand as a surety and furnish an undertaking that if released on bail the petitioner shall not be allowed to indulge in any unlawful act and all care will be taken that he does not fall in the company of anti-social elements and in case the petitioner indulges in any unlawful act, he will inform it to the jurisdictional police station, 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 Children's Court-cum- 1st Additional Sessions Judge, Siwan in connection with Cr. Appeal No. 29 of 2021, Registration No. 36 of 2021, J.E. No. 193 of 2021 arising out of Mairwa P.S. Case No. 149 of



2021.

Subject to condition that one of the sureties shall be the father of the petitioner who will also furnish an undertaking that if released on bail the petitioner shall not be allowed to indulge in any unlawful act and all care will be taken that he does not fall in the company of anti-social elements and in case the petitioner indulges in any unlawful act, he will inform it to the jurisdictional police station.

And it is further ordered that the Probation Officer attached to the Juvenile Justice Board, Siwan shall keep a vigil over the petitioner and will be submitting his periodical reports to the Juvenile Justice Board as regards the conduct of the petitioner.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

vats/-

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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'.

