

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.98 of 2022

Arising Out of PS. Case No.-447 Year-2019 Thana- SHERGHATI District- Gaya

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XXX, Son of Shiva Mandal, Under The Guardianship of His Sister-in-law (BHABHI) Namely Arti Devi Aged About 37 Years, Female, Wife Of Virendra Mandal, R/O Village- Ghodjara, P.S.- Sagahi, Cherki, P.S.- Sherghati, Dist.- Gaya

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Petitioner/s	:	Mr.Ayush Kumar, Advocate
For the Respondent/s	:	Mr.Ganesh Prasad Singh, A.P.P.
For the Informant	:	Mr. Ajay Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 12-07-2022 Heard learned counsel for the petitioner, learned counsel for the informant and Mr. Ganesh Prasad Singh, learned APP for the State.

This revision application is directed against the order dated 29.01.2021 passed by learned Special Judge (Children Court), Gaya in Juvenile Trial No. 16 of 2020 whereby and whereunder the order dated 15.10.2020 (corrected vide order dated 27.01.2021) rejecting bail of the petitioner by learned Juvenile Justice Board, Gaya in G.R. No. 1293 of 2019 arising out of Sherghati P.S. Case No. 447 of 2019 registered for the offences punishable under Sections 302/307/32/324/34 of the Indian Penal Code has been affirmed.



As per the prosecution story, the petitioner and other named accused persons are alleged to have assaulted the informant's elder brother which resulted into his death. The informant is also alleged to have been assaulted which caused bleeding injury on his head.

Learned counsel for the petitioner submits that the petitioner has been declared juvenile by the Juvenile Justice Board, Gaya on the alleged date of occurrence and he has remained in the observation home since 07.10.2019, his Bhabhi 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, she 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 petitioner is one of the accused in the F.I.R. and the allegations against him that in the dispute which arose between the two families he had also assaulted the deceased by hand and fists blow, the petitioner has remained in the observation home since 07.10.2019 as stated by learned counsel for the petitioner though in the impugned order it is stated to be 19.02.2020, he has no criminal antecedent and his Bhabhi who is only person available in the family is ready to stand as a surety and furnish an undertaking that if released on bail she will ensure that the petitioner dose not fall in the company of bad elements and in case he is found in getting involved in any crime the same will be reported to the jurisdictional police station, 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 Bhabhi is ready to stand as a surety and furnish an undertaking that if released on bail she would ensure that the petitioner does not get involved in commission of any crime and she would further ensure that the petitioner is found involved in any offence thereafter, she will immediately report 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 Juvenile Justice Board, Gaya in connection with G.R. No. 1293 of 2019 arising out of Sherghati P.S. Case No. 447 of 2019.

And further 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, she will inform it to the jurisdictional police station.

And it is further ordered that the Probation Officer attached to the Juvenile Justice Board, Gaya 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)

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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'.

