

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.88 of 2022

Arising Out of PS. Case No.-237 Year-2021 Thana- TURKAULIYA District- East
Champaran

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AZAD ALAM @ MD. AAAD @ SAHIL AZAD @ MD. AZAD Son of Wasi Ahmad Resident of Village - Siswa Shahbad Tola P.S. - Banjariya (Turkauliya). District - East Champaran, through his father/guardian, about 52 years , Son of Late Safik, Resident of Village- Siswa Shahbad Tola, P.S. - Banjariya (Turkauliya), District - East Champaran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Advocate
For the Respondent/s : Mr. Bharat Lal, APP

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 20-05-2022 Heard learned counsel for the petitioner and the State through virtual mode.

Learned counsel for the petitioner is directed to remove the defect(s) as pointed out by the office within a period of four weeks.

This Criminal Revision has been preferred against the judgment dated 16-12-2021 passed by the learned Ist Additional Sessions Judge, Motihari, East Champaran in Criminal Appeal No. 34 of 2021, whereby and where under the learned Ist Additional Sessions Judge, Motihari, East Champaran has affirmed the order dated 22-10-2021 passed by the Juvenile Justice Board, Motihari, East Champaran, whereby the Juvenile Justice Board, Motihari, East Champaran has rejected the prayer for bail of the petitioner in



connection with J. J. B. Trial No. 1208 of 2021 arising out of Turkauliya (Banjariya) P.S. Case No. 237 of 2021, registered under Sections 341, 323, 376D, 504 of the Indian Penal Code and 67 of the Information & Technology Act.

Allegation against the petitioner is of establishing physical relationship with the informant on the pretext of marriage.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 22-03-2021. the petitioner has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the petitioner. Charge sheet in this case has already been submitted. On the pretext of marriage, the petitioner is alleged to have established physical relationship with the informant. The same was consensual relationship between the parties. From the statement of the victim recorded under Section 164 of the Cr.P.C., it appears that the victim has solemnized marriage with the petitioner. Learned counsel for the petitioner further submits that the **father** of the petitioner is ready to furnish an undertaking that while on bail, **he** will not allow the petitioner to associate with criminals or anti-social elements. The petitioner has relied upon the judgment of ***Lalu Kumar and Ors. Vs. The State of Bihar (reported in 2019(4) PLJR 833)*** where a Division Bench of this Court while considering the scope of Section 12 of the Juvenile Justice Act, 2015 in paragraph No. 84 of the judgment has observed the following:

84. While interpreting Section 12, the Board



is duty bound to be guided by the fundamental principles enumerated in Section 3 of the Act of 2015, specially the principles of 'best interest', 'repatriation' and 'restoration' of child. The fundamental principles in Section 3(xii) provides that a child shall be placed in institutional care as a step of last resort after making a reasonable inquiry. The gravity and nature of the offence are immaterial for consideration of bail under the Act of 2015. As per Section 12 of the Act of 2015, an application for bail is not decided by reference to classification of offences, as bailable or non-bailable under the Cr. P.C. All persons alleged to be in conflict with law and apparently a child when apprehended must be released except in the following three circumstances when there is reasonable ground for believing that:-

- (i) The released 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 psychological danger; and
- (iii) The release would defeat the ends of justice”.

Learned A.P.P. for the State is present and has opposed the prayer for bail of the petitioner.

Having regard to the facts and circumstances of the case,



Social Investigation Report of the petitioner was called for from the concerned Probation Officer. The Probation Officer in his report has reported that the petitioner is calm and social boy. It has also transpired that there was love affairs between the petitioner and the victim and in order to pressurize the petitioner for marrying the victim, the present case has been instituted. Further the report does not reveal that there is any material to substantiate that in the event of grant of bail, the petitioner is likely to go into association of known criminals or any anti-social elements.

The law requires that reasonable grounds should be there for believing that in the event of grant of bail, the petitioner would go into association of any “known criminal” or exposed to moral, physical and psychological danger or the release of the person would defeat the ends of justice. There is no reference of any known criminal nor there is any other substantial material for the conclusion as recorded by the court below.

Considering the facts and circumstances of the case as well as the findings of the Probation Officer in the Social Investigation Report of the petitioner and the proposition of law as stated above, this Criminal Revision Application is allowed and the order dated 16-12-2021 passed by the learned Ist Additional Sessions Judge, Motihari, East Champaran in Criminal Appeal No. 34 of 2021 and the order dated 22-10-2021 passed by the Juvenile Justice Board, Motihari, East Champaran in J.J.B. Trial No. 1208 of 2021 arising



out of Turkauliya (Banjariya) P.S. Case No. 237 of 2021 are set aside.

Let the petitioner, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of his father on execution of surety bond of Rs.10,000/- (Ten Thousand) to the satisfaction of Juvenile Justice Board, Motihari, East Champaran in connection with J.J.B. Trial No. 1208 of 2021 arising out of Turkauliya (Banjariya) P.S. Case No. 237 of 2021, with condition that father of the petitioner shall furnish an undertaking that while the petitioner is on bail, father will not allow the petitioner to come in company/association with any criminal or anti-social elements that he will take proper care of the petitioner. Further the the petitioner will be produced as and when required by the court below and shall cooperate during the trial.

(Sudhir Singh, J)

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