

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.80 of 2022

Arising Out of PS. Case No.-22 Year-2021 Thana- NARDIGANJ District- Nawada

RAMJATAN KUMAR S/o Raj Kumar Chuhan Under legal guardianship of
Sumitra Devi W/o Raj Kumar Chauhan happens to be mother of petitioner,
R/o Village- Tarauni, P.S.- Nardiganj, District- Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Birendra Kumar

For the Respondent/s : Mr.Shailendra Kumar

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 order
dated 07-12-2021 passed by the learned Ist Additional Sessions
Judge-cum-Special Judge, Nawada in Child Case No. 13 of 2021
arising out of Nardiganj P.S. Case No. 22 of 2021, whereby and
where under the learned Ist Additional Sessions Judge-cum-Special
Judge, Nawada has affirmed the order dated 20-09-2021 whereby the
Juvenile Justice Board, Nawada has rejected the prayer for bail of
the petitioner in connection with J. Enquiry No. 732 of 2021 arising
out of Nardiganj P.S. Case No. 22 of 2021, registered under



Sections 147, 148, 149, 341, 323, 307, 302, 504, 506 of the Indian Penal Code.

Prosecution case in short is that in the backdrop of a petty feud, an altercation took place between the parties and in consequence thereof, the petitioner along with others variously armed came to the house of informant and started assaulting, as a result of which, the informant's father succumbed to the injuries.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 10-02-2021. 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. General and omnibus allegation of assault has been made against 14 accused persons. No specific overt act is alleged against the petitioner. From perusal of postmortem report of the deceased, it appears that there are only two external injuries. The postmortem report does not support the allegation made in the F.I.R. Learned counsel for the petitioner further submits that the mother of the petitioner is ready to furnish an undertaking that while on bail, she 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 opined that the petitioner has been made accused due to village politics. There is enmity between the parties as both parties belong to different communities. 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 07-12-2021 passed by the learned Ist Additional Sessions Judge-cum-Special Judge, Nawada in Child Case No. 13 of 2021 arising out of Nardiganj P.S. Case No. 22 of 2021 and the order dated 20-09-2021



passed by the Juvenile Justice Board, Nawada in Juvenile Inquiry No. 732 of 2021 arising out of Nardiganj P.S. Case No. 22 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 mother on execution of surety bond of Rs.10,000/- (Ten Thousand) to the satisfaction of Juvenile Justice Board, Nawada in connection with Juvenile Inquiry No. 732 of 2021 arising out of Nardiganj P.S. Case No. 22 of 2021, with condition that mother of the petitioner shall furnish an undertaking that while the petitioner is on bail, mother 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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