

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.87 of 2022**

Arising Out of PS. Case No.-342 Year-2021 Thana- MASHRAK District- Saran

(XXX) Son Of Harendra Ram R/O Village- Chand Kudariya, P.S.- Mashrakh,
District- Saran At Chapra, Under Guardianship Of Mina Devi, Wife Of
Harendra Ram, Mother of the Petitioner and Guardian

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Bindyachal Singh, Senior Advocate Mr. Ram Binod Singh, Advocate
For the State	:	Mr. Kumar Veerendra Narayan, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

5 11-11-2022 Heard Mr. Bindhyachal Singh, learned Senior counsel
assisted by Mr. Ram Binod Singh, learned counsel for the petitioner
and Mr. Kumar Veerendra Narayan, learned APP for the State.

Petitioner in the present case is seeking setting aside of the
order dated 23.12.2021 passed by learned 1st Additional Sessions
Judge-cum-Children Court, Saran at Chapra in Cr. (Juvenile) Appeal
No. 40 of 2021 whereby and whereunder the order dated 16.11.2021
passed by learned Principal Magistrate, Juvenile Justice Board, Saran
at Chapra in Juvenile Enquiry No. 396 of 2021 arising out of
Mashrakh P.S. Case No. 342 of 2021 registered under Sections 302,
120(B) of the Indian Penal Code rejecting the prayer for bail of the
petitioner has been affirmed.

Learned Senior counsel for the petitioner submits that on
perusal of the first information report, it would appear that it is



against unknown. In course of investigation, one prosecution witness in para '31' of the case diary stated that the co-accused Kanhaiya Kumar had injured the deceased with knife and this petitioner is said to be present with said Kanhaiya Kumar.

Learned Senior Counsel submits that the co-accused Kanhaiya Kumar has been enlarged on bail in Cr. Rev. No. 716 of 2021 vide order dated 20.05.2022. It is submitted that the petitioner is under protective custody since 02.07.2021.

Learned APP for the State has, while opposing this application, not disputed the fact that co-accused Kanhaiya Kumar has been granted bail and further that in course of investigation, no specific allegation has come against this petitioner. This Court has been informed that in the social investigation report, mixed kind of opinions have been stated by the neighbours. Some of them have stated that the behaviour of the petitioner is normal whereas some of them have complained against him. The alleged occurrence is said to have taken place in the matter of love affair between the deceased and a girl from the co-sharer family of the petitioner. As regards the criminal antecedent, learned senior counsel for the petitioner as well as learned APP for the State have specifically submitted that the petitioner has got no criminal antecedent.

Having regard to the facts and circumstances stated hereinabove, the fact that the petitioner has been adjudged juvenile aged about 16 years 1 month and 7 days on the alleged date of



occurrence, there is no specific allegation against him and co-accused Kanhaiya Kumar has already been granted bail, the petitioner is under protective custody since 02.07.2021 and at this stage, his father is ready to stand as a surety and furnish an undertaking that if released on bail, he will ensure that the petitioner does not fall in bad company and in case he is found involved in commission of any offence, the same will be reported to the jurisdictional police station, as also following the spirit of Section 12 of the 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. versus 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 physiology 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 Principal Magistrate, Juvenile Justice Board, Saran at Chapra in



connection with Juvenile Enquiry No. 396/21 arising out of Mashrakh P.S. Case No. 342 of 2021.

One of the sureties shall 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, Saran at Chapra 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 allowed.

(Rajeev Ranjan Prasad, J)

lekhi/-

U		T	
---	--	---	--

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'.

