

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.103 of 2022

Arising Out of PS. Case No.-189 Year-2021 Thana- EKANGARSARAI District- Nalanda

(XXX), Son Of Kishore Prasad (Under guardianship of his natural father namely Kishore Prasad), Both resident of Village - Shivdatbigha, P.S.- Ekangarsarai, Distt.- Nalanda (name and paternal as per annexure -1)

... .. Petitioner

Versus

The State of Bihar.

... .. Respondent

Appearance :

For the Petitioner/s : Mr. Anil Kumar Singh, Advocate.

For the Respondent/s : Mr. Rajendra Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 29-08-2022 Heard learned counsel for the petitioner and Mr. Rajendra Singh, learned APP for the State.

The petitioner in the present case is seeking setting aside of the judgment and order dated 03.12.2021 passed by learned Special Children Court, Nalanda in Children Case No. 27 of 2021 whereby and whereunder the order dated 17.09.2021 rejecting the prayer for bail of the petitioner passed by learned learned Juvenile Justice Board, Nalanda in J.J.B. Case No. 526 of 2021 arising out of Ekangarsarai P.S. Case No. 189 of 2021 registered for the offence punishable under Sections 341, 302/34 of the Indian Penal Code and Sections 25(1-b)a, 26, 27, 35 of the Arms Act has been affirmed.

Learned counsel for the petitioner submits that this petitioner has been adjudged juvenile aged about 16 years 9



months at the time of alleged occurrence. It is his submission that on bare perusal of the fardbeyan, it would appear that this petitioner is said to be one of the persons who were standing at the door of the informant but there is no specific allegation against the petitioner. The informant identifies the petitioner by name but as regards the firing upon her husband, she says that the said firing was done by an unknown boy. Learned counsel submits that the co-accused who were also named with the petitioner have been granted bail by learned Juvenile Justice Board itself.

Learned counsel further submits that from the impugned order, it would appear that the learned Juvenile Justice Board rejected the prayer for bail of the petitioner taking note of the social investigation report and later on, the learned Special Children Court also rejected the prayer for bail of the petitioner on similar considerations. It is submitted that in fact no statement of the father of the petitioner was ever recorded and in his affidavit filed before this Court, father of the petitioner has undertaken that if released on bail, the petitioner will stay with his maternal uncle at Patna and shall pursue his studies. It is submitted that the petitioner is a student of B.Sc. Part I and he has recently appeared in the said examination by virtue of the order dated 19.07.2022 passed by this Court. He



has got only one criminal antecedent under the Bihar Prohibition And Excise Act, 2018.

Learned APP for the State has though opposed the prayer for bail of the petitioner but considering the facts and circumstances of the case particularly that the petitioner has been adjudged juvenile on the alleged date of occurrence on 11.08.2021, he is said to be a student who is pursuing his studies in B.Sc. Part I and his father has come with an affidavit praying for bail of the petitioner and is ready to furnish an undertaking that if released on bail, the petitioner shall stay with his maternal uncle to pursue his studies, considering the spirit of Section 12 of 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 physiological 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 Juvenile Justice Board, Nalanda in connection with J.J.B. Case No. 526 of 2021 arising out of Ekangarsarai P.S. Case No. 189 of 2021.

One of the sureties should be the father of the petitioner and he will also furnish an undertaking that if released on bail, the petitioner shall stay at Patna with his maternal uncle to pursue his studies and will not be allowed to fall in bad companies 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, Nalanda 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 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'.

