

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.114 of 2022

Arising Out of PS. Case No.-295 Year-2019 Thana- MALSALAMI District- Patna

XXX Son of Rameshwar Prasad through his Legal Guardian Shri Sunil Kumar Sinha, aged about 50 Years (father), Resident of Village - Nuruddinganj, P.s.- Malsalami, Distt.- Patna.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner/s : Mr.Ravindra Kumar, Advocate
For the Respondent/s : Mr.Zainul Abedin, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 21-07-2022 Heard learned counsel for the petitioner and Mr. Zainul Abedin, learned A.P.P. for the State.

Petitioner, in the present case, is seeking setting aside of the order dated 13.12.2021 passed in Criminal Appeal No. 123/2021 by the learned Additional District and Sessions Judge – cum – Special Judge, Juvenile Court, Gaighat, Patna whereby and whereunder he has affirmed the order dated 25.08.2021 passed by the learned Juvenile Justice Board, Ghaighat, Patna in J.J.B. Case No. 303/2021 arising out of Malsalami P.S. Case No. 295 of 2019 registered for the offence under Section 363/366A of the Indian Penal Code by which the Board has refused to release the petitioner on bail.

As per the prosecution story, the informant has alleged that his daughter, who was aged about 16 years, had



gone outside from the house without disclosing anything. He searched his daughter and found that his daughter was taken away by the petitioner with an intention to marry her.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. The juvenile Justice Board has assessed the age of the petitioner as 17 years, 10 months and 22 days and he has no criminal antecedent.

Learned counsel submits that the petitioner in the observation home since 15.01.2021 and the trial is still going on and his father is ready to stand as a surety and furnish an undertaking that if released on bail he will ensure that the petitioner remains connected with his studies and does not fall in bad company and in case the petitioner indulges in any unlawful act, he will inform it to the jurisdictional police station.

Mr. Zainul Abedin, learned A.P.P. for the State has opposed the prayer for bail of the petitioner.

Having regard to the submission that this petitioner is a juvenile, the F.I.R. has been lodged on mere suspicion, the victim girl is said to have married with some other boy and is living with him, this petitioner has excellent academic records and after passing his Intermediate examination in first division in the year 2019 he was selected in the National Defence



Academy and Naval Academy Examination and was called for an interview, he is said to be in the observation home since 15.01.2021 and the trial is still going on, he has otherwise no criminal antecedent, his father is ready to stand as a surety and furnish an undertaking that if released on bail he will ensure that the petitioner remains connected with his studies and does not fall in bad company and in case the petitioner indulges in any unlawful act, he will inform it 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. Vs. 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 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, Gaighat, Patna in connection with in J.J.B. Case No. 303/2021 arising out of Malsalami P.S. Case No. 295 of 2019.

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 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, Gaighat, Patna 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.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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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'.

