

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.123 of 2022

Arising Out of PS. Case No.-48 Year-2021 Thana- DAUDPUR District- Saran

XXX son of Kanhaiya Ray R/o village- Beldari, P.S.- Daudpur, District- Saran, under the Guardianship of his father namely, Kanhaiya Ray.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner	:	Mr.Brajesh Kumar Singh
For the Respondent	:	Mr.Sanjay Kumar Singh, Advocate
For the State	:	Mr. Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 19-07-2022 Learned counsel for the petitioner undertakes to remove the defects, as pointed out by office, within two weeks from today.

Heard learned counsel for the petitioner, learned counsel for the informant and learned A.P.P. for the State.

Petitioner, in the present case, is seeking setting aside of the judgment order dated 17.01.2022 passed by learned 1st Additional Sessions Judge – cum – Children’s Court, Saran in Criminal (Juvenile) Appeal no. 39/2021 arising out of J.J.B. Case No. 1188/2021 arising out of Daudpur P.S. Case No. 48/2021 whereby and whereunder the learned Appellate Court has dismissed the appeal upholding the order dated 25.10.2021 passed by the learned Juvenile Justice Board, Saran at Chapra in J.J.B. No. 1188/2021.



Learned counsel for the petitioner submits that as per the prosecution story, this petitioner is one of the assailants of the deceased but the post-mortem report shows only one injury on his head which proved fatal for his life.

It is submitted that the petitioner has been adjudged juvenile aged about 15 years 10 months and he is a student of Intermediate which has come in the Probationer's report also.

It is further submitted that petitioner has no criminal antecedent and in case the petitioner is released on bail his father, who is working as a driver at Kolkata, will stand as a surety and furnish an undertaking that he will take the petitioner with himself and shall ensure his studies at Kolkata as well as that he would not fall in bad company.

Learned counsel for the informant has opposed the prayer for bail of the petitioner, as according to him, the petitioner is one of the assailants. Learned counsel however does not deny that the petitioner has been found aged below 16 years and the inquiry against him is still pending.

Mr. Akhileshwar Dayal, learned A.P.P. for the State has also opposed the prayer in similar terms.

Having regard to the submission noted hereinabove and the materials available on the record, on finding that the



petitioner has been found aged below 16 years, 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 take care of the study of the petitioner by taking him to his place of work and shall ensure that he 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, Saran at Chapra in connection with Daudpur P.S. Case No. 48 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 will 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.

Certified copy of the order will be made available only after removal of the defects, as pointed out by office.

This application stands disposed off accordingly.

(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'.

