

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.234 of 2021

Arising Out of PS. Case No.-240 Year-2019 Thana- BARACHATTI District- Gaya

BITTU KUMAR MEHTA @ BITTU KUMAR MAHTO @ BITTU KUMAR
S/o Late Lakhan Mehta Resident of Village- Sheosagar Lengdapipar,
Domchanch, P.S.- Domchanch, District- Kodarma (Jharkhand) through his
natural guardian his mother Aruna Devi, W/o- Late Lakhan Mehta.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Arvind Kumar Singh, Advocate
For the Respondent/s : Mr.Arun Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 10-02-2022 Due to the third wave of COVID-19 Pandemic, the matter
is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading ‘For Orders’
under the orders of Hon’ble the Chief Justice.

Re. I.A. No. 1 of 2021

The present interlocutory application has been filed for
condoning the delay in filing the present revision application.

For the reasons stated in the I.A. application and the
submissions made in support thereof, I.A. No. 1 of 2021 is allowed.
The delay in filing the revision application is condoned.

Heard learned counsel for the petitioner and learned APP
for the State through virtual mode.

The criminal revision application has been preferred
against the judgment dated 21.08.2020 passed in Cr. Appeal



(Juvenile) No. 41/2020 (C.I.S.) by learned Special Judge(Children Court), Gaya whereby and whereunder the learned Special Judge has upheld the order dated 03.03.2020 passed by learned J.J.B. Board, Gaya which has rejected the prayer for bail of the petitioner in connection with Barachatty P.S. Case No. 240/2019 registered for the offences under sections 414 of the Indian Penal Code, 3 and 4 of Explosive Substance Act and 182(A) of Motor Vehicle Act, 1958.

The prosecution story, in brief is that during the vehicle checking, the police has intercepted a vehicle and seized explosives from the vehicle.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 09.06.2019 and has got no criminal antecedent. Charge-sheet has been submitted in the present case. There is no allegation of tampering alleged against the petitioner. The petitioner is co-driver of the vehicle in which explosives are said to have been found. The petitioner had no knowledge regarding the nature of goods kept in the vehicle. It has further been submitted that the other co-accused who was driving the vehicle has been granted bail by a Coordinate Bench of this Court. 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 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 psychological danger; and
- (iii) The release would defeat the ends of justice.”

On behalf of the State, it is submitted that the petitioner is named in the F.I.R. and his release would defeat the ends of justice.

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 reported that the father of the petitioner is dead. The petitioner got into the company of driver and started roaming on vehicle. 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 substantive 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 judgment dated 21.08.2020 passed in Cr. Appeal (Juvenile) No. 41/2020 (C.I.S.) by learned Special Judge(Children Court), Gaya and the order dated 03.03.2020 passed by learned J.J.B. Board, Gaya in Barachatty P.S. Case No. 240/2019, 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 learned J.J.B. Board, Gaya in connection with Barachatty P.S. Case No. 240/2019 with the condition that the mother of the petitioner shall furnish an undertaking that while the petitioner is on bail, she will not allow the petitioner to come in company/association with any criminal or anti social elements and



she will take proper care of the petitioner. Further 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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