

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.257 of 2021**

Arising Out of PS. Case No.-63 Year-2017 Thana- PHULWARIA District- Begusarai

Rajesh Kumar Das @ Rajesh Kumar @ Chhotu, Male, aged about 15 years and 5 months, 7 days, S/O Mahendra Tanti, through his father as Guardian namely Mahendra Tanti, R/O Village- Barauni, Flag, Chaukidar Tola, Ward No. 02, P.S.- Phulwaria, District- Begusarai.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

**Appearance :**

For the Petitioner : Mr. Sandip Kumar Gautam, Advocate  
For the Respondent : Mr. Pradip Narain Kumar, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH**  
**ORAL ORDER**

5      20-05-2022                      Heard learned counsel for the petitioner and learned A.P.P. for the State through Virtual mode.

Learned counsel for the petitioner is directed to remove the defects, as pointed out by the office, within a period of four weeks.

This Criminal Revision Application has been preferred against the order dated 09.11.2020, passed by learned Additional Sessions Judge I-cum-P.O, Children Court, Begusarai, in Criminal Appeal No. 48 of 2020, whereby the



appeal filed by the petitioner against the order dated 23.06.2020, passed by learned Principal Magistrate, Juvenile Justice Board, Begusarai, in J.J.B. Case No. 15 of 2018, was dismissed whereby and whereunder the Juvenile Justice Board, Begusarai, has rejected the prayer for bail of the petitioner in connection with Phulwaria P.S. Case No. 63 of 2017 registered under Sections 399, 402, 120(B) of the I.P.C., Sections 25(1-b)a, 26, 27 and 35 of the Arms Act and Section 3/4 of the Explosive Substance Act.

The facts of the case, in brief, is that on 22.05.2017 on receiving a secret information, the informant alongwith other persons proceeded to apprehend the persons who were planning to commit an offence and on reaching the spot, he saw around 10 persons were sitting there and on seeing the police party, they tried to escape and this petitioner alongwith other persons were apprehended and from the possession of this petitioner, one live cartridge and two bombs were recovered.

Learned counsel for the petitioner submits that the petitioner is a juvenile and is in Remand Home since 23.05.2017. He has falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against the petitioner. Charge sheet has been submitted in the



present case. Learned counsel has submitted that as per Section 18(g) of the Juvenile Justice Act, the maximum sentence which can be awarded to a juvenile is to direct the juvenile to be sent to a Special Home, for such period, not exceeding three years. The petitioner has remained in custody for more than five years. He further submits that the father of the petitioner is ready to furnish an undertaking that while on bail he 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. V. 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.”

Learned A.P.P. for the State is present and has opposed the prayer for bail of the petitioner. It has further been pointed out that the release of the petitioner 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 by order dated 10.02.2022. From perusal of the report, it appears that there is no material in the social investigation report of the petitioner which indicates that the release of the petitioner will bring him in association of any known criminal nor there is any finding that the petitioner would be imposed to physical/psychological danger on his release.

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.

Hence, the impugned order suffers from failure to exercise jurisdiction vested in law, is result of error apparent on the face of the record and non-consideration of provisions of law. Accordingly, this criminal revision application is allowed and the order dated 09.11.2020, passed by learned Additional Sessions Judge-I-cum-P.O., Children Court, Begusarai, in Criminal Appeal No. 48 of 2020, in J.J.B. Case No. 15 of 2018 as well as the order dated 23.06.2020, passed by learned Principal Magistrate, J.J.B. Board, Begusarai, in connection with Phulwaria P.S. Case No. 63 of 2017, are set aside.

Let the petitioner, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of his father on execution of surety bond of Rs. 10,000/- (Rupees Ten Thousand Only), to the satisfaction of learned Principal Magistrate, Juvenile Justice Board, Begusarai, in connection with Phulwaria P.S. Case No. 63 of 2017, with the condition that, the father of the petitioner shall furnish an undertaking that while the petitioner is on bail, he will not allow the petitioner to come in company/association with any criminal or anti-social element and that he will take proper care of the



petitioner. Further, the petitioner will be produced as and when required by the Juvenile Justice Board and shall co-operate in the trial.

**(Sudhir Singh, J)**

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