

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.270 of 2021**

Arising Out of PS. Case No.-35 Year-2020 Thana- BARAULI District- Gopalganj

XXX, Son Of Shri Kishuni Sah under natural guardianship, R/O Village-
Dewapur, P.S.- Barauli, District- Gopalganj.

... .. Petitioner/s

Versus

The State Of Bhar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Kumar Kaushlendra, Adv.

For the Respondent/s : Mr.Ram Bilash Roy Raman, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

5 12-07-2022 Perused the report at Flag ‘C’ from which it appears

that the petitioner has submitted himself to the jurisdiction of
the Juvenile Justice Board, Gopalganj on 10.05.2022 and
presently he is in the observation home at Siwan.

Heard learned counsel for the petitioner and learned
APP for the State.

Petitioner in the present case is seeking setting aside
of the impugned judgment dated 29.01.2021 passed by
Additional District and Sessions Judge-1, Gopalganj in
Cr.Appeal No.01 of 2021 arising out of Barauli P.S. Case
No.35/2020, G.R.No.460/2020 for the offences under Sections
376DA/302/201/34 of the Indian Penal Code and Section 4/6 of
the POCSO Act whereby and whereunder the bail application
filed on behalf of the petitioner has been rejected.



As per the prosecution story, the daughter of the informant was found hanging from the ceiling of the new building of the school and her hands and legs were tied with a cloth. The First Information Report was, thus, registered against unknown. However, during the course of investigation, one Ankit Patel was arrested on suspicion. The aforesaid Ankit Patel has named the petitioner as having participated in the murder.

Learned counsel for the petitioner submits that the petitioner has been declared juvenile aged about 15 years 8 months and 17 days on the alleged date of occurrence. Learned counsel submits that the father of the petitioner is ready to stand as surety and give 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.

It is further submitted that in the case of **Lalu Kumar and Ors. versus The State of Bihar** reported in **2019 (4) PLJR 833** the Hon'ble Division Bench of this Court in paragraph '84' of the judgment has carved out three exceptions in which prayer for bail of a juvenile may be denied which are 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 physiology danger; and

(ii) The release would defeat the ends of justice.”

Learned APP for the State has opposed the prayer for bail of the petitioner.

Having regard to the submission that the petitioner has been declared juvenile aged about 15 years 8 months and 17 days on the alleged date of occurrence, his name has transpired in the confessional statement of the co-accused Ankit Kumar Patel, the another co-accused Niranjan Patel as also Ankit Kumar Patel have been granted bail by learned coordinate Benches of this Court in Cr.Misc.No.25920/2020 and Cr.Appeal (SJ) No.1392 of 2021 respectively, keeping in view the spirit of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and keeping in view the exceptions carved out by the Hon’ble Division Bench of this Court in the case of **Lalu Kumar (supra)** as also his father is ready to stand as surety and give an undertaking that if released on bail, the petitioner shall not be allowed to come in contact of any bad element, 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, Gopaganj in connection with J.E. Case No.23/2020 arising out of Barauli P.S. Case No.35/2020, G.R. No.460/2020. 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, Gopalganj 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'.

