

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.274 of 2021**

Arising Out of PS. Case No.-37 Year-2020 Thana- PARAIYA District- Gaya

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Suraj Kumar Son Of Satyendra Rajak @ Satyendra Ravidas @ Satendra Rajak Resident Of Village- Eguni (INGUNI), P.S.- Paraiya, District- Gaya, Through His Natural Guardian His Father Satyendra Rajak @ Satyendra Ravidas @ Satendra Rajak

... .. Petitioner

Versus

The State Of Bihar

... .. Respondent

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Appearance :

For the Petitioner/s : Mr.Arvind Kumar Singh, Advocate
For the Respondent/s : Mr.Ram Sumiran Rai. APP

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**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.

This criminal revision application has been preferred against the judgment dated 31.08.2020 passed by learned Special



Judge (Children Court), Gaya in Cr. Appeal (Juvenile) No. 44/2020 (C.I.S.) whereby and whereunder the learned Special Judge has upheld the order dated 22.06.2020 whereby learned Juvenile Justice Board, Gaya has rejected the prayer for bail of the petitioner in connection with Paraiya P.S. Case No. 37/2020, G.R. No. 989/2020 registered for the offences under sections 363 and 364/34 of the Indian Penal Code in which sections 302 and 201 of the I.P.C. were added later on.

The prosecution story, in brief is that the accused persons including the petitioner took the son of the informant to visit for Yagya but later the son of the informant did not return.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 04.03.2020 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 name of the petitioner has transpired in the present case on the basis of last seen. As far as recovery of dead body and the weapon used in the occurrence are concerned, that is on the confession of co-accused namely Pankaj. There is no substantive evidence to suggest the implication of the petitioner in the present case. There is no eye witness to the alleged occurrence nor there is any chain of circumstance which would suggest the participation of the petitioner in the alleged occurrence. Learned counsel for the petitioner 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. 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 there is no 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 31.08.2020 passed by learned Special Judge (Children Court), Gaya in Cr. Appeal (Juvenile) No. 44/2020 (C.I.S.) and the order dated 22.06.2020 passed by learned Juvenile Justice Board, Gaya in connection with Paraiya P.S. Case No. 37/2020, G.R. No. 989/2020, 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/- (ten thousand) to the satisfaction of learned Juvenile Justice Board, Gaya in connection with Paraiya P.S. Case No. 37/2020, G.R. No. 989/2020



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 elements that he will take proper care of the appellant. 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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