

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.235 of 2022

Arising Out of PS. Case No.-149 Year-2021 Thana- MAIRWAN District- Siwan

1. XXX, S/o Pankaj Kumar Ray @ Pankaj Singh, R/o Village- Karom, P.S.- Darauli, District- Siwan. Under guardianship of his Father- Pankaj Kumar Ray @ Pankaj Singh S/o Vashishth Narayan Ray R/o Village- Karom, P.S.- Darauli, District- Siwan.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner/s : Mr. Ajay Kumar Pandey, Advocate
For the Respondent/s : Mr. Md. Fahimuddin, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 29-08-2022 Heard learned counsel for the petitioner and Mr. Md. Fahimuddin, learned A.P.P. for the State.

Petitioner in the present case is seeking setting aside of the order dated 01.02.2022 passed by the learned Children Judge-cum-1st Additional Sessions Judge, Siwan in Cr. Appeal No. 37 of 2021 as well as order dated 25.10.2021 passed by the Juvenile Justice Board, Siwan in J.E. No. 193 of 2021 arising out of Mairawa P.S. Case No. 149 of 2021 registered for the offences under Section 302, 120(B), 34 of the Indian Penal Code whereby and whereunder the prayer for bail of the petitioner has been rejected. He is in custody since 14.06.2021. Petitioner has no criminal antecedent.

Learned counsel for the petitioner submits that as per



the First Information Report, the husband of the informant was killed by some unknown miscreants in his house located at Mairawa. Learned counsel submits that this petitioner has been adjudged juvenile aged about 14 years.

It is further submitted that this Court has allowed the prayer for bail of similarly situated persons who were also juvenile in Criminal Revision No. 83 of 2022 and Cr. Appeal (SJ) No. 921 of 2022.

Learned counsel further submits that the petitioner has no criminal antecedent and if released on bail his father is ready to furnish an undertaking that he will ensure that the petitioner does not involve in bad company and in case it is found that he is involving in any crime the same will be brought to the notice of jurisdictional Police Station.

Mr. Md. Fahimuddin, learned A.P.P. for the State has though opposed the prayer for bail of the petitioner but it appears from the report received from the learned court below that till date no prosecution witness has been examined.

Considering the facts and circumstances of the case, the submission that the petitioner is similarly situated with the other two juveniles who have been granted bail by this Court, he is aged about 14 years and his father is ready to 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 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. versus 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 physiology danger; and

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

this Court sets aside the impugned judgment 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, Siwan in connection with J.E. No. 193 of 2021 arising out of Mairawa P.S. Case No. 149 of 2021.

One of the sureties shall 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, Siwan 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.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take steps for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

vats/-

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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'.

