

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.231 of 2022

Arising Out of PS. Case No.-112 Year-2021 Thana- BAUSI District- Araria

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(XXX), Son of Akhilesh Parihast, Resident of village - Dhobinia (Pipraha)
Nahar, P.S.- Bousi, District - Araria.

... .. Petitioner

Versus

The State of Bihar.

... .. Respondent

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Appearance :

For the Petitioner/s : Mr. Navjot Yesu, Advocate.

For the Respondent/s : Mr. Md. Fahimuddin, APP.

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 29-08-2022 Heard learned counsel for the petitioner and Mr. Md.

Fahimuddin, learned APP for the State.

The petitioner in the present case is seeking setting aside of the order dated 22.02.2022 passed by learned 1st Additional Sessions Judge-cum-Children Court, Araria in Spl (child) Case No. 01 of 2022 arising out of Bausi P.S. Case No. 112 of 2021 registered for the offence punishable under Sections 302/34 of the Indian Penal Code. He has no criminal antecedents.

Learned counsel for the petitioner submits that as per the prosecution report, the son of the informant had left his house at about 09:30 P.M. on 04.11.2021 along with the two friends, namely, Anjani Kumar and this petitioner. It is alleged that the son of the informant did not return till 12 O'clock in the night thereafter he has started searching out his son but could not come to know about his whereabouts. On 05.11.2021, one dead body



was found near the Dhobiniya Pipraha Canal and on hearing the rumour when the informant went there, he identified that the dead body was that of his son.

Learned counsel submits that in course of investigation, no credible material has been collected showing involvement of the petitioner in the alleged occurrence. As per the post-mortem report, there was no external injury on the dead body and no definite opinion could be made by the doctors about the cause of death of the son of the informant.

Learned counsel further submits that this petitioner is a student and he appeared in the intermediate class examination while studying in jail. The social investigation report does not show any adverse material against him.

Learned APP for the State has gone through the social investigation report and submits that the social investigation report contains the opinion of the Probation Officer who met the neighbours of the petitioner. There is no complaint against the petitioner and his family and it is true that the petitioner has appeared in intermediate examination while studying in jail.

Learned APP confirms that there is no criminal antecedent of this petitioner. He has remained in the observation home since 05.11.2021. Admittedly, the petitioner has been adjudged juvenile aged about 17 years 1 month on the alleged date



of occurrence.

Having regard to the submissions made hereinabove and the materials particularly the social investigation report of the petitioner indicating that the neighbours has not made any complaint against the behavioural pattern of the petitioner. He is a student and has taken his intermediate examination from jail and further considering the spirit of Section 12 of 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 physiological danger; and
- (iii) The release would defeat the ends of justice.”

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 1st Additional Sessions Judge-cum-Children Court, Araria in connection with Spl (Child) Case No. 01 of 2022.



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, Araria as regards the conduct of the petitioners. If anything adverse is found against the petitioners, 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.

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'.

