

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.259 of 2022**

Arising Out of PS. Case No.-91 Year-2021 Thana- BANIAPUR District- Saran

(XXX) Son of Suryabali Prasad Resident of village - Harpur Tola, P.S.-
Baniyapur, District - Saran at Chapra.

... .. Petitioner

Versus

1. The State of Bihar
2. Bhim Kumar Sah, Son of Late Sheobachchan Sah, Resident of Village-
Harpur ke Tola, P.S.- Baniyapur, District- Saran at Chapra

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr. Jeetendra Narayan, Advocate
For the State	:	Ms. Usha Kumari 1, Special PP
For the O.P. No. 2	:	Mr. Anant Kumar Bhaskar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 11-11-2022 Heard learned counsel for the petitioner, Ms. Usha Kumari
No. 1, learned Special PP for the State and Mr. Anant Kumar
Bhashkar, learned counsel for the informant.

Petitioner in the present case is seeking setting aside the
judgment and order dated 29.03.2022 passed in Criminal (Juvenile)
Appeal No. 08 of 2022 whereby and whereunder the learned
Children Court has affirmed the order refusing bail to the petitioner
passed by learned Juvenile Justice Board, Saran at Chapra in J.J.B.
No. 1204 of 2022 arising out of Baniyapur P.S. Case No. 91 of 2021
dated 30.03.2021 registered under Sections 147, 148, 149, 341, 323,
324, 325, 307, 302 and 504 of the Indian Penal Code and Sections
3(i)(r)(s), 2(v) of the SC/ST (Prevention of Atrocities) Act.

Learned counsel for the petitioner submits that on a
careful perusal of the first information report, it would appear that the



family of the petitioner and that of the informant had been involved in a land dispute. In connection with the said dispute, it is alleged that the instant occurrence took place in which father of the informant was assaulted by several persons. It is pointed out that so far as the allegation of causing assault is concerned, there is no allegation against the petitioner. He is said to be present there with the mob. Learned counsel, therefore, submits that it is nothing but a case of false implication of the minor/juvenile of the family. Learned counsel further submits that the petitioner is under protective custody since 03.04.2021. His social investigation report says that if released on bail he would be involved in his studies and may connect himself with the mainstream of the society.

Learned Special PP for the State and learned counsel for the informant have, though opposed the prayer for bail of the petitioner but at the same time, this Court has been informed that in the social investigation report, no adverse information has been recorded against the petitioner. His behaviour has been found good and the people have stated that he has been involved because of the dispute between the two families.

Learned counsel for the informant has pointed out that this petition has been filed by the petitioner in which the affidavit has been sworn by the accused of the case who happens to be the uncle of the petitioner.

Learned counsel for the petitioner has further informed



that co-accused Kailash Kumar Prasad and Vidya Prasad have been granted bail in Cr. Appeal (SJ) No. 3017 of 2021 and 3050 of 2021 respectively.

Having heard learned counsel for the parties and upon perusal of the records, this Court is of the considered opinion that in the facts and circumstances of the case, the petitioner who has been adjudged juvenile deserves the privilege of bail. His mother is ready to stand as a surety and furnish an undertaking that if released on bail, he will not come in contact with any bad element. Keeping in view 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
- (iii) The release would defeat the ends of justice.”

this Court sets aside the impugned order and directs release of the petitioner on furnishing bail bonds 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,



Saran at Chapra in connection with J.J.B. No. 1204 of 2022 arising out of Baniyapur P.S. Case No. 91 of 2021.

One of the sureties shall be the mother of the petitioner and she 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, she 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, Saran at Chapra 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 allowed.

(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'.

