

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.392 of 2021

Arising Out of PS. Case No.-299 Year-2020 Thana- GOPALGANJ TOWN District-
Gopalganj

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RAJU KUMAR, aged about 17years (Male), Son of Sunil Kumar, Resident of Village - Mukeri Tola, P.S. - Gopalganj, District - Gopalganj, under the guardianship of his father Sunil Kumar, aged about 47 years, Son of Bishwanath Kamkar, Resident of Village - Mukeri Tola, P.S. and District - Gopalganj.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Petitioner	:	Mr. Mohammad Sufyan, Advocate
For the Respondent	:	Mr. Ram Bilash Roy Raman, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

5 20-05-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State through Virtual mode.

Learned counsel for the petitioner is directed to remove the defects, as pointed out by the office, within a period of four weeks.

This Criminal Revision Application has been preferred against the order dated 08.03.2021, passed by learned Additional District & Sessions Judge, Gopalganj, in Criminal Appeal No. 4/2021, whereby the appeal filed by the petitioner against the order dated 12.01.2021, passed by learned Principal Magistrate, Juvenile Justice Board, Gopalganj, was dismissed whereby and whereunder the Juvenile Justice Board, Gopalganj,



has rejected the prayer for bail of the petitioner in J.E.No. 66/2020, arising out of Gopalganj P.S. Case No. 299/2020, G.R. No. 1657/2020 registered under Sections 363, 365 and 302 of the I.P.C.

The facts of the case, in brief, is that on 28.05.2020, the grand-son (Nati) of the informant, namely, Bittu Kumar, went to Siwan on Motorcycle to give money to one Umesh Chaudhary, the driver of the vehicle, for bringing spare parts of the vehicle. After giving money, Umesh Chaudhary, dropped his grand-son from the Motorcycle on the road in front of Mukeri Tola Village and thereafter Umesh Chaudhary went to his home. When the grand-son of the informant did not return till 11.00 P.M. in the night, the informant and his family members started searching him but he was not traced out till morning. At last, the informant lodged the F.I.R. in the police station.

Learned counsel for the petitioner submits that the petitioner is a juvenile and is in Remand Home since 31.05.2020. He has got no criminal antecedent. He has falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against the petitioner. Charge sheet has been submitted in the present case. The petitioner is not named in the F.I.R. The name of the petitioner



has transpired in the present case on the basis of confessional statement of co-accused recorded under Section 161 of Cr.P.C. before the police. Except for this, there is no other substantive evidence to suggest the implication of the petitioner in the present case. He 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. V. 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.”

Learned A.P.P. for the State is present and has opposed the prayer for bail of the petitioner. It has further been pointed out that the release of the petitioner 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 by order dated 28.10.2021. The Probation Officer in his report has stated that there is cordial relationship of the petitioner with his family members. None of the neighbours of the petitioner have stated anything adverse against the petitioner. Majority of the friends of the petitioner are of the same age group. Further, from perusal of the report, it appears that there is no material in the social investigation report of the petitioner which indicates that the release of the petitioner will bring him in association of any known criminal nor there is any finding that the petitioner would be imposed to physical/psychological danger on his release.

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.

Hence, the impugned order suffers from failure to exercise jurisdiction vested in law, is result of error apparent on the face of the record and non-consideration of provisions of law. Accordingly, this criminal revision application is allowed and the order dated 08.03.2021, passed by learned Additional District & Sessions Judge, Gopalganj, in Criminal Appeal No. 04/2021 as well as the order dated 12.01.2021, passed by learned Juvenile Justice Board, Gopalganj, in J.E. No. 66/2020, arising out of Gopalganj P.S. Case No. 299/2020, G.R.No. 1657/2020, 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/- (Rupees Ten Thousand Only), to the satisfaction of learned Principal Magistrate, Juvenile Justice Board, Gopalganj, in J.E.



No. 66/2020, arising out of Gopalganj P.S. Case No. 299/2020, G.R. No. 1657/2020, 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 element and that he will take proper care of the petitioner. Further, the petitioner will be produced as and when required by the Juvenile Justice Board and shall co-operate in the trial.

(Sudhir Singh, J)

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