IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.277 of 2022

Arising Out of PS. Case No.-113 Year-2021 Thana- AWTARNAGAR District- Saran

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XXX Son Of Sanoj Kumar Rai R/O- Village- Kajipur, P.S.- Doriganj, District- Saran At Chapra.

... ... Petitioner

Versus

THE STATE OF BIHAR

... ... Respondent

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Appearance :
For the Petitioner/s : Mr.Radha Mohan Singh, Advocate
For the Respondent/s : Mr.Dr. Ajeet Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 24-11-2022 Mr. Radha Mohan Singh, learned counsel for the petitioner seeks permission to file the hard copy of the application. According to him, with filing of hard copy all the defects, except defect no. 10, would stand removed. As regard defect no. 10, it is stated that in fact the typed copy of page no. 25 and 26 are already enclosed.

In that view of the matter, let defect no. 10 be ignored.

Heard learned counsel for the petitioner and Dr. Ajeet Kumar, learned A.P.P. for the State.

Petitioner, in the present case, is seeking setting aside of the judgment and order dated 02.02.2022 passed in Cr. (Juvenile) Appeal no. 38 of 2021/Reg. No. 38 of 2021 by the learned 1st Additional Sessions Judge-cum-Children Court, Saran at Chapra whereby and whereunder the learned court has dismissed the the appeal and upheld the order dated 26.10.2021

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passed in J.J.B. Case No. 1394 of 2021 arising out Awatar Nagar P.S. Case No. 113 of 2021 registered for the offences punishable under Sections 365, 302 and 34 of the Indian Penal Code by learned Juvenile Justice Board, Saran at Chapra.

Learned counsel for the petitioner submits that on a bare perusal of the First Information Report, it would appear that no one is named in the F.I.R. The father of the informant had gone missing in the evening after he left to Dhanaura Bazar for purchase of vegetables.

Learned counsel submits that in course of investigation of the case, the petitioner has been made accused on the basis of an information said to have been received from a spy. On the said information only the dead body was recovered. It is stated that from the call details the petitioner has been connected with the alleged occurrence.

Learned counsel submits that the co-accused Rajan Kumar has been granted bail by a learned coordinate Bench of this Court in Cr. Misc. No. 713/2022. It is further submitted that one of the juveniles has moved this court in Cr. Rev. No. 775/2021 which has also been allowed. Learned counsel submits that at the time of alleged occurrence the petitioner was aged about 14 years 5 months and 18 days.

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Learned A.P.P. for the State has though opposed the prayer for bail of the petitioner, but on going through the social investigation report, no adverse material could be pointed out to this Court. The conduct and behaviour of the petitioner is said to be normal even as some of the neighbours said that the petitioner indulges in indisciplined act, some of his neighbours have said that there is no complaint against him. It is further submitted that the petitioner has no criminal antecedent and his father is ready to stand as surety and furnish an undertaking that if released on bail he would not allow the petitioner to fall in bad company and shall keep him connected with the mainstream of the society.

Having regard to the facts and circumstances of the case, the fact that the petitioner has been adjudged juvenile aged about 14 years 5 months and 18 days only on the alleged date of occurrence and similarly situated juvenile has been granted bail by this Court in Cr. Rev. No. 775/2021, the petitioner has no criminal antecedent and his father is ready to stand as surety and furnish an undertaking, taking into consideration 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**

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Kumar and Ors. Vs. 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 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, Saran at Chapra in connection with Awatar Nagar P.S. Case No. 113 of 2021.

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

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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.

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 step 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.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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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'.

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