

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.299 of 2022

Arising Out of PS. Case No.-3 Year-2022 Thana- LAKHISARAI District- Lakhisarai

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XXX, Son Of Ram Janam Singh @ Ram Jatan Singh @ Ram Janam Kumar
R/O Village- Paharpur, P.S.- Barahiya, District- Lakhisarai, Under
Guardianship Of His Father Ram Janam Singh @ Ram Jatan Singh @ Ram
Janam Kumar, R/O Village- Paharpur, P.S.- Barahiya, District- Lakhisarai

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Jai Prakash Singh, Advocate
For the Respondent/s : Mr.Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 14-09-2022 Heard learned counsel for the petitioner and Mr.
Akhileshwar Dayal, learned APP for the State.

Petitioner in the present case has been adjudged
juvenile aged about 17 years 9 months and 8 days on the alleged
date of occurrence. He is seeking setting aside of the impugned
judgment dated 30.03.2022 passed by learned District and
Sessions Judge-1st-cum-Special Judge, Lakhisarai in Cr.Appeal
No.6 of 2022 as well as the judgment dated 04.03.2022 passed
by the learned Principal Magistrate, Juvenile Justice Board,
Lakhisarai in Lakhisarai P.S. Case No.3 of 2022 registered for
the offences under Sections 302/120(B)/34 of the Indian Penal
Code and Section 27 of the Arms Act by which the prayer for



bail of the petitioner has been rejected.

Learned counsel for the petitioner submits that the petitioner happened to be a co-villager of one of the co-accused namely Kartik Kumar (accused no.3). There was prior enmity between the said Kartik Kumar and one of the deceased namely Prasoon Kumar @ Funu Kumar. The said deceased Prasoon Kumar @ Funu Kumar was an accused in the murder case of the father of Kartik Kumar. He had recently been released from jail. In the FIR, the mother of the deceased has alleged that four persons namely Abhishek Kumar, Sanjeev Kumar @ Golu, Kartik Kumar and Sudhir Kumar along with four unknown persons had shot dead her son and one Bihari Singh who was also sitting with him.

It is his submission that in course of investigation the confessional statement of the named co-accused were recorded by police and in that it transpired that this petitioner had been in telephonic talk with one of the co-accused namely Sudhir Kumar. In the case diary, no material has come that this petitioner was present at the place of occurrence or that he had been involved in causing assault upon the deceased.

Learned counsel submits that the only reason for which the petitioner has been implicated is said to be he is being



in touch with one of the co-accused Sudhir Kumar and police says that sensing that he may also be involved in conspiracy, the petitioner has been involved in this case.

It is further submitted that the petitioner has got one criminal antecedent of an excise case in which he is on bail and in the social investigation report there is no adverse material save and except to say that he was in touch with one of the co-accused Sudhir Kumar.

Mr. Akhileshwar Dayal, learned APP for the State has informed this Court that the petitioner has been made accused in this case because he is supposed to be a companion of one of the co-accused Sudhir Kumar. Learned APP, however submits that so far as this petitioner is concerned, there is no specific allegation of commission of overt act against him and as per the confessional statement he was said to be present at some distance from the place of occurrence with a motorcycle but there is no eye witness in the case diary saying that this petitioner was seen at the place of occurrence. On repeated query made by this Court, learned APP has affirmed this position.

Having regard to the facts and circumstances of the case, the submissions noted here-in-above and upon finding that



the petitioner has been adjudged juvenile, he is in the safety home since 06.01.2022 and further that there is no allegation of commission of overt act against him, the petitioner is said to have been named in this case because of his being in touch with one of the co-accused, his father is also ready to stand as surety and 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 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. 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 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, Lakhisarai in connection with Lakhisarai P.S. Case No.3 of 2022.

One of the bailors 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, Lakhisarai 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 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'.

