

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.325 of 2022

Arising Out of PS. Case No.-36 Year-2020 Thana- SONBERSA District- Sitamarhi

XXX, Son Of Shyam Mahto @ Shyambabu Mahto Under Guardianship Of
Babita Devi W/O- Shyam Mahto @ Shyambabu Mahto Of Village- Sonbarsa,
P.S.- Sonbarsa, District- Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sangeet Deokuliar, Adv.
For the Respondent/s : Mr.Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 20-07-2022 Heard learned counsel for the petitioner and learned
APP for the State.

This revision application has been filed seeking setting aside of the judgment and order dated 12.04.2022 passed in Cr.Apeal No.16 of 2022 by learned 1st Additional Sessions Judge-cum-Special Judge (Children's Court), Sitamarhi whereby and whereunder the learned Sessions Judge has been pleased to affirm the order dated 08.03.2022 passed by the Juvenile Justice Board, Sitamarhi in connection with J.J. Board Case No.1393 of 2022 arising out of Sonbarsa P.S. Case No.36 of 2020/G.R.Case No.665 of 2020 for the offence under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act by which the prayer for bail of the petitioner has been rejected.



As per the allegation in the First Information Report, the petitioner along with other accused persons variously armed entered in the house of the informant and dragged her son out of the house. It is alleged that thereafter they all fired upon the victim causing his death.

Learned counsel for the petitioner submits that the petitioner has been adjudged juvenile aged about 14 years on the alleged date of occurrence, he has no criminal antecedent and has remained in the observation home since 23.02.2022. Learned counsel submits that the mother of the petitioner is ready to stand as surety and furnish an undertaking that if released on bail she would ensure that the petitioner does not fall in the bad company and in case he is found getting involved in any offence she will bring it to the notice of the concerned police station.

Learned APP for the State is present and has opposed the prayer for bail of the petitioner.

Having regard to the submissions that at the time of the alleged occurrence the petitioner was hardly about 14 years of age, the occurrence has taken place on account of dispute between the two families in which the petitioner, who is a juvenile, has been falsely implicated, he has no criminal



antecedent, he has remained in the observation home since 23.02.2022 and his mother is ready to stand as surety and furnish an undertaking that if released on bail she would ensure that the petitioner does not fall in the bad company and in case he is found getting involved in any offence she will bring it to the notice of the concerned police station, 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 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, Sitamarhi in connection with



Sonbarsa P.S. Case No.36 of 2020/G.R. Case No.665 of 2020.

One of the sureties should 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, Sitamarhi 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'.

