

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)  
CRIMINAL REVISION No.324 of 2022**

Arising Out of PS. Case No.-357 Year-2021 Thana- BASANTPUR District- Siwan

(XXX) Son of Om Prakash Sah Under Guardianship and Legal and Natural Guardian of His Mother namely Devanti Devi aged about 61 Years, Gender - Female, W/o of Om Prakash Sah, Both are Resident of Village - Janki Nagar, P.s.- Basantpur , Distt.- Siwan. ... .. Petitioner

Versus

The State of Bihar ... .. Respondent

**Appearance :**

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

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD  
ORAL ORDER**

5      11-11-2022                      Heard Mr. Bindhyachal Singh, learned Senior Counsel assisted by Mr. Bijay Prakash Singh, learned counsel for the petitioner and Mr. Akhileshwar Dayal, learned APP for the State.

Petitioner in the present case is seeking setting aside of the order dated 26.11.2021 passed by the learned Children Court-cum- 1<sup>st</sup> Additional District and Sessions Judge, Siwan in Cr. Appeal No. 30 of 2021 whereby and whereunder the order dated 15.09.2021 passed by learned Juvenile Justice Board, Siwan in connection with J.E. Case No. 311 of 2021 corresponding to G.R. Case No. 3415 of 2021 arising out of Basantpur P.S. Case No. 357 of 2021 registered under Sections 386, 387, 302, 34 of the Indian Penal Code and Section 27 of the Arms Act rejecting the prayer for bail of the petitioner has been affirmed.

Learned counsel for the petitioner submits that the petitioner has been adjudged juvenile aged about 16 years 10



months and 8 days on the alleged date of occurrence. It is submitted that on perusal of the FIR it will appear that the specific allegation of firing is attributed against co-accused Nitish Kumar. So far as this petitioner is concerned, no specific role has been assigned to this petitioner and at best he may be said to be a member of the mob.

Learned counsel further submits that the petitioner is in protective custody since 25.08.2021. His social investigation report is good and if released on bail, he may continue with his studies and get in touch with the mainstream of the society. The father of the petitioner, at this stage, is ready to stand as a surety and furnish an undertaking that if released on bail, he will ensure that the petitioner does not fall in bad company and in case he is found involved in commission of any offence, the same will be reported to the jurisdictional police station.

Learned APP for the State has, though, opposed the bail application but at the same time submits that from the social investigation report, it appears that the petitioner has no criminal antecedent and his neighbours have not made any complaints against him.

Having regard to the facts and circumstances stated hereinabove, considering that the petitioner is a juvenile and the social investigation report does not carry any adverse opinion



against him, 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 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, Siwan in connection with J.E. Case No. 311 of 2021 corresponding to G.R. Case No. 3415 of 2021 arising out of Basantpur P.S. Case No. 357 of 2021.

One of the sureties shall 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, Siwan 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.

It appears from the records that an interlocutory application has been filed seeking the condonation of delay in filing of this revision application.

Perusal of the application would show that the impugned order was passed during the pandemic period and in terms of the judgment of the Hon'ble Supreme Court in Suo Moto Writ (Civil) No. 5 of 2020 as well as judgment of the Hon'ble Full Bench of this Court in Civil Writ Jurisdiction Case No. 5633 of 2020 the period up to 20<sup>th</sup> March, 2022 shall not be taken into consideration to count the period of limitation, therefore I.A. No.1 of 2022 is not required to be considered and the revision application is treated in time.

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'.

