

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.440 of 2021

Arising Out of PS. Case No.-132 Year-2019 Thana- RAJEPUR District- East Champaran

(XXX) Son of Late Anand Prasad Resident of Village - Madhuaha Maal, P.S.-
Rajepur, District - East Champaran. Petitioner

Versus

The State of Bihar Respondent

Appearance :

For the Petitioner/s : Mr. Rakesh Kumar No.1, Advocate
For the Respondent/s : Mr. Akhileshwar Dayal. APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 07-09-2022 Heard learned counsel for the petitioner and Mr. Akhileshwar Dayal, learned APP for the State.

Petitioner in this case is seeking setting aside of the impugned judgment dated 25.03.2021 passed by learned 1st Addl. Sessions Judge -cum- Special Judge of Children Court at Motihari in connection with Children Tr. No. 02/2021 arising out of Rajepur P.S. Case No. 132/2019 registered for the offences punishable under Sections 302, 120(B)/34 of the Indian Penal Code and his release on bail.

Learned counsel for the petitioner submits that as per prosecution story, this petitioner had been sitting pressing both the hands of the deceased while the co-accused were assaulting by deadly weapons. Learned counsel submits that in course of investigation, it has come that there was a land dispute between the parties. The co-accused Mukesh Kumar has been granted bail by a learned Coordinate Bench of this Court in Cr. Misc. No.



14438 of 2020. So far as this petitioner is concerned, he has been adjudged juvenile aged about 17 years 5 months on the alleged date of occurrence and he has got no criminal antecedent as also his social investigation report does not indicate any adverse material against him. He was studying in class 9th.

Learned APP for the State has though opposed the prayer for bail of the petitioner but considering the entirety of the facts and circumstances, the materials available on the record, the age of the petitioner and further that his social investigation report does not indicate any adverse material against him and the co-accused against whom there are specific allegations have been granted bail, taking note of 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 judgment 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 1st Additional Sessions Judge-cum- Special Judge, Children Court at Motihari in connection with Children Tr. No. 2 of 2021 arising out of Rajepur P.S. Case No. 132 of 2019.

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, Motihari, East Champaran 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.

This 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'.

