

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.448 of 2021

Arising Out of PS. Case No.-94 Year-2020 Thana- HASANPUR District- Samastipur

Manish Kumar, aged about 19 years, Male, S/O Chandeshwar Choudhari,
R/O Village-Maldah, P.S-Hasanpur, District-Samastipur, residing under
guardianship of his father namely Chandeshwar Choudhari.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Respondent

Appearance :

For the Petitioner	:	Mr. Md. Hussamuddin Azad, Advocate
For the Respondent	:	Mr. Pramod Kumar Pandey, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 20-05-2022 Heard learned counsel for the petitioner and learned
A.P.P. for the State through Virtual mode.

Learned counsel for the petitioner is directed to
remove the defects, as pointed out by the office, within a period
of four weeks.

This Criminal Revision Application has been
preferred against the order dated 07.04.2021, passed by learned
Additional Sessions Judge,-I-cum-Juvenile Court, Samastipur,
in Hasanpur P.S. Case No. 94/2020, G.R. No. 386/2020,
Sessions Trial No. 171/2020 registered under Sections 365 and
363 of the I.P.C. Later on, Sections 302, 201 and 120(B) of the
I.P.C. were also added.

The facts of the case, in brief, is that the father of the
informant was a village Vaidya. On 02.05.2020, in the evening
at about 6.00 P.M., he had gone towards *Goha Chawk* but he did



not return after lapse of many days. The informant and his family members searched him but he was not traced out anywhere. His father worn *Lungi* and *Kurta* and does social work apart from doing village Vaidya.

Learned counsel for the petitioner submits that the petitioner is a juvenile and is in Remand Home since 10.12.2020. He has got no criminal antecedent. He has falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against the petitioner. Charge sheet has been submitted in the present case. The petitioner is not named in the F.I.R. The name of the petitioner has transpired in the present case on the basis of confessional statement of co-accused recorded under Section 161 of Cr.P.C. before the police. Except for this, there is no other substantive evidence to suggest the implication of the petitioner in the present case. Learned counsel has submitted that as per Section 18(g) of the Juvenile Justice Act, the maximum sentence which can be awarded to a juvenile is to direct the juvenile to be sent to a Special Home, for such period, not exceeding three years. The petitioner has remained in custody for approximately one and half years. He further submits that the father of the petitioner is ready to furnish an undertaking that while on bail



he will not allow the petitioner to associate with criminals or anti-social elements. The petitioner has relied upon the judgment of *Lalu Kumar and Ors. V. The State of Bihar (reported in 2019 (4) PLJR 833)* where a Division Bench of this Court while considering the scope of Section 12 of the Juvenile Justice Act, 2015, in paragraph no. 84 of the judgment has observed the following.

“84. While interpreting Section 12, the Board is duty bound to be guided by the fundamental principles enumerated in Section 3 of the Act of 2015, specially the principles of ‘best interest’, ‘repatriation’ and ‘restoration’ of child. The fundamental principles in Section 3(xii) provides that a child shall be placed in institutional care as a step of last resort after making a reasonable inquiry. The gravity and nature of the offence are immaterial for consideration of bail under the Act of 2015. As per Section 12 of the Act of 2015, an application for bail is not decided by reference to classification of offences, as bailable or non-bailable under the Cr. P.C. All persons alleged to be in conflict with law and apparently a child when apprehended must be released except in the following three circumstances when there is reasonable ground for believing that:-

- (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 psychological danger; and
- (iii) The release would defeat the ends of justice.”

Learned A.P.P. for the State is present and has opposed the prayer for bail of the petitioner. It has further been pointed out that the release of the petitioner would defeat the



ends of justice.

Having regard to the facts and circumstances of the case, Social Investigation Report of the petitioner was called for from the concerned Probation Officer by order dated 07.12.2021. Further, from perusal of the report, it appears that there is no material in the social investigation report of the petitioner which indicates that the release of the petitioner will bring him in association of any known criminal nor there is any finding that the petitioner would be imposed to physical/psychological danger on his release.

The law requires that reasonable grounds should be there for believing that in the event of grant of bail, the petitioner would go into association of any 'known criminal' or exposed to moral, physical and psychological danger or the release of the person would defeat the ends of justice. There is no reference of any known criminal nor there is any other substantive material for the conclusion as recorded by the court below.

Hence, the impugned order suffers from failure to exercise jurisdiction vested in law, is result of error apparent on the face of the record and non-consideration of provisions of law. Accordingly, this criminal revision application is allowed



and the order dated 07.04.2021, passed by learned Additional Sessions Judge-I-cum-Juvenile Court, Samastipur, in Hasanpur P.S. Case No. 94/2020, G.R. No. 386/2020, Sessions Trial No. 171/2020, is set aside.

Let the petitioner, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of his father on execution of surety bond of Rs. 10,000/- (Rupees Ten Thousand Only), to the satisfaction of learned Juvenile Justice Board, Samastipur, in Hasanpur P.S. Case No. 94/2020, G.R. No. 386/2020, Sessions Trial No. 171/2020 with the condition that, the father of the petitioner shall furnish an undertaking that while the petitioner is on bail, he will not allow the petitioner to come in company/association with any criminal or anti-social element and that he will take proper care of the petitioner. Further, the petitioner will be produced as and when required by the Juvenile Justice Board and shall co-operate in the trial.

(Sudhir Singh, J)

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