

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.386 of 2022**

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

(XXX) Son of Anil Singh R/O Village- Nandpur, P.S.- Surajgarha, District- Lakhisarai, Through His Father And Natural Guardian Anil Singh (Male) Aged About 35 Years, Son Of Bachchu Singh, R/O Village- Nandpur, Burhanath Mandir, P.S.- Surajgarha, District- Lakhisarai

... .. Petitioner

Versus

1. The State of Bihar
2. Chunni Devi W/O Late Jitendra Kumar R/O Village- Babhangama, P.S.- Amahra, District- Lakhisarai

... .. Opposite Parties

Appearance :

For the Petitioner	:	Mr. Mukesh Kumar, Advocate
For the State	:	Mr. Md. Fahimmudin, APP

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

7 02-12-2022 Heard learned counsel for the petitioner and Mr. Md. Fahimuddin, learned APP for the State.

This Court had issued notice to the informant. The notice has been validly served as per the A/D of the registered post which has been recorded by this Court in its order dated 29.11.2022.

Learned counsel for the petitioner submits that after conducting an enquiry, learned Juvenile Justice Board, Lakhisarai has vide its order dated 18.02.2022 declared the petitioner a juvenile aged about 17 years 5 months 13 days on the alleged date of occurrence. It is submitted that although the investigating officer, in course of investigation doubted the date of birth of the



petitioner saying that the petitioner had obtained a mobile sim card by submitting a copy of his Aadhar Card in which his date of birth was disclosed as 20.07.2001 but in course of enquiry, the learned Juvenile Justice Board has considered the evidence of the In-charge Principal of the Primary School, Paharpur who has stated that the name of the petitioner is entered in the school admission register in the year 2008 at serial no. A1-2022 and his date of birth is mentioned there as 20.07.2004. It is submitted that though the Juvenile Justice Board noticed an overwriting on the date of birth but in ultimate analysis the date of birth of the petitioner has been taken as 20.07.2004 rendering him a juvenile.

Learned counsel submits that even otherwise in the first information report, the informant has specifically named four persons who had surrounded the son of the informant. The informant has specifically stated that four named persons and four unnamed persons were firing upon the son of the informant and on one Bihari Singh of village Ballipur.

It is submitted that the petitioner has got no criminal antecedent and he has been falsely implicated in this case on the basis of an information that this petitioner was in touch with the named accused of this case.

Mr. Md. Fahimuddin, learned APP for the State has informed this Court that he is in possession of the case diary and



the social investigation report.

Learned APP submits that this petitioner is not named in the FIR and the only reason for his implication in this case is that he was talking to one of the named accused of this case and his connection with the named accused has been found. In this case, no test identification parade has taken place and the petitioner has not been identified. It is further submitted that in course of the post-mortem, one fire-arm injury has been found on the body of the deceased. The petitioner has no criminal antecedent. Learned APP has further informed that the petitioner is said to be studying in Class XII.

This Court had at one stage issued notice to the O.P. No. 2 taking a view that prima-facie it seems to be a case of interpolation after the commission of crime and records have been manufactured to get the benefit of juvenility but the fact remains that the opposite party no. 2 has not appeared to contest this issue.

In the meantime, a report from the District Education Officer, Lakhisarai as contained in his letter no. 2354 dated 01.10.2022 has been received. As per report, an overwriting on the date of birth has been noticed by him also but one more fact has been brought to the notice of this Court that the date of birth of the petitioner in matriculation is also mentioned as 20.07.2004. A copy of provisional certificate which has been enclosed with the report



of the District Education Officer shows that in the record of Bihar School Examination Board, Patna, the date of birth of the petitioner has been recorded as 20.07.2004 and the petitioner was given provisional certificate of passing of Annual Secondary Examination of the year 2020 from High School, Jaitpur, Lakhisarai vide roll no. 2000311 in second division. It appears that the matriculation certificate is of the year 2020 whereas the occurrence of the present case is of 02.01.2022, therefore, in the given circumstance, it cannot be said that the matriculation certificate is a manufactured document and has been purposely made to get the benefit of juvenility in this case.

Having regard to the facts and circumstances of the case, this Court is of the considered opinion that because the order declaring the petitioner a juvenile is not under challenge and despite notice to the opposite party no. 2 she has not turned up to oppose this application, this Court can no longer prolong the consideration of this case on a mere doubt as to the age of the petitioner. The order dated 09.03.2022 by which the Board has declared the petitioner juvenile is to be relied upon at this stage.

On merit, this Court finds that there is no specific allegation against the petitioner and the only material which is said to have come against him is that he was talking to one of the named accused of this case. This Court has asked learned APP for



the State as to whether any participation of this petitioner has been found in course of investigation, learned APP has stated that there is no such material. The petitioner has otherwise no criminal antecedent, he is said to be a student of Class XII and is in protective custody since 06.01.2022, one of the juveniles Homi Kumar has been granted bail by this Court in Criminal Revision No. 299 of 2022 and another co-accused Raj Kumar Singh has been granted bail in Criminal Misc. No. 22409 of 2022, father of the petitioner 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 and considering the spirit of Section 12 of the Juvenile Justice (Care and Protection) 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 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.”

the impugned order is set aside.

Let the petitioner above named be released on bail on furnishing bail bonds of Rs. 25,000/- (Rupees Twenty Five Thousand Rupees 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. 03 of 2022.

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, 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.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

lekhi/-

U		T	
---	--	---	--

