

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.405 of 2022**

Arising Out of PS. Case No.-40 Year-2022 Thana- GOVERNMENT OFFICIAL COMP.
District- Madhubani

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XXX Son Of Lalit Choudhary R/O Village- Jagatpur, Ward No.-4, P.S.-
Rahika, District- Madhubani, Through His Legal Guardian Namely Rohit
Chaudhary Son Of Vaidyanath Chaudhary, R/O Village- Jagatpur, Ward No.-
4, P.S.- Rahika, District- Madhubani

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Petitioner/s : Mr.Subhash Kumar Jha, Advocate
For the Respondent/s : Mr.Akhileshwar Dayal, APP

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

4 30-09-2022 Learned counsel for the petitioner submits that it is a
GO Case, hence in this case case diary could not be available.

Mr. Akhileshwar Dayal, learned A.P.P. for the State
agrees with the same.

The matter has been heard on merit.

Heard learned counsel for the petitioner and learned
A.P.P. for the State.

Petitioner, in the present case, is seeking setting-aside
of the order dated 20.05.2022 passed in Criminal Appeal No. 12
of 2022 by learned Additional Sessions Judge – 1st, Madhubani
whereby he has been pleased to reject the prayer for bail of the
petitioner in connection with G.O. Case No. 40 of 2022
registered under Section 30(a) of the Bihar Prohibition and



Excise Amendment Act, 2018. Petitioner is in custody since 27.01.2022 having no criminal antecedent as stated in paragraph '3' of the application.

As per the prosecution story, while the informant raided the place of occurrence with his associates, he recovered total 45 liters Nepali liquor including a Splendor motorcycle from the possession of this petitioner.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. Petitioner is a juvenile aged about 16 years. Learned counsel submits that the father of the petitioner is ready to stand as a surety and furnish an undertaking that if released on bail he will take care of the study of the petitioner and shall ensure that he does not fall in bad company and in case the petitioner indulges in any unlawful act, he will inform it to the jurisdictional police station.

Learned A.P.P. for the State has opposed the prayer for bail of the petitioner.

Having regard to the submission that this petitioner is juvenile aged about 16 years and neither the liquor in question nor the motorcycle from which it has been recovered belong to the petitioner, the petitioner has no criminal antecedent and has remained in the observation home since 27.01.2022 and at this



stage his father is ready to stand as a surety and furnish an undertaking that if released on bail he will take care of the study of the petitioner and shall ensure that he does not fall in bad company and in case the petitioner indulges in any unlawful act, he will inform it to the jurisdictional police station as also following 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. 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 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 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, Madhubani in connection with G.O. Case No. 40



of 2022.

One of the sureties should 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, Madhubani 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.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

(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'.

