

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM THE RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.423 of 2022**

Arising Out of PS. Case No.-416 Year-2021 Thana- KATIHAR NAGAR District- Katihar

xxxxx S/o Pradeep Paswan Under the Guardianship of his father namely Pradeep Paswan, R/o Mohalla- Grain Shop Para, Driver Tola, Ward No. 16, P.S.- Katihar (Nagar), District- Katihar

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Bimal Kumar, Advocate
For the State	:	Mr.Dinesh Singh, APP
For the Informant	:	Mr.Dharmendra Kumar Paswan, Advocate

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

6 18-11-2022 Heard learned counsel for the petitioner, learned counsel for the informant and learned APP for the State.

Petitioner in the present case is seeking setting aside of the order dated 20.04.2022 passed by learned A.D.J. Ist cum Special Judge, Katihar in Katihar Town P.S. Case no. 416/2021 registered under sections 302, 120 (B)/ 34 of the Indian Penal Code and Section 27 of the Arms act and subsequently Sections 3(2), (v) of the SC/ST(Prevention of Atrocities) Act have been added whereby and whereunder prayer for bail of the petitioner has been rejected.

Learned counsel for the petitioner submits that the petitioner has been adjudged juvenile, his date of birth being 01.01.2005 and on the alleged date of occurrence he was 16 years 6 months old.

Learned counsel further submits that the petitioner is not



named in the F.I.R. but during investigation he has been brought within the purview of the case on the basis of a confessional statement of co-accused Karan Kumar Singh.

Learned counsel for the petitioner submits that the petitioner is in the observation home since 02.08.2021. It is also his submission that the petitioner as well as the victim both belong to the Scheduled Caste and therefore, in this case the provisions of SC/ST Act would not be attracted.

It is lastly submitted that if released on bail the father of the petitioner is ready to stand as a surety and 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. Co-accused Karan Kumar Singh has already been granted bail by a learned co-ordinate Bench of this Court in Cr. Appeal (SJ) No. 242/2022.

Learned APP for the State submits that according to him, the provision of SC/ST Act would not be attracted and it is true that the petitioner is not named in the F.I.R. He has also no criminal antecedents.

Learned counsel submits that in the Social Investigation Report there is no adverse material against this petitioner.

Learned counsel for the informant, however, submits that in course of investigation, the co-accused Karan Kumar Singh



disclosed that this petitioner was also present at the place of occurrence.

Having regard to the facts and circumstances of the case noted hereinabove, finding that the petitioner is a juvenile and he has already remained in the observation home for over one year, his name has transpired in the confessional statement of one Karan Kumar Singh who has already been granted bail and further that the Social Investigation Report of the petitioner does not carry any adverse material against him, his father is ready to stand as a surety and 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, 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. 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 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 A.D.J. Ist cum Special Judge, Katihar in connection with Katihar Town P.S. Case no. 416/2021.

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 Children Court, Katihar as regards the conduct of the petitioner. If anything adverse is found against the petitioner, the same will also be reported to the Court 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'.

