

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.491 of 2021**

Arising Out of PS. Case No.-89 Year-2018 Thana- BARHIYA District- Lakhisarai

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XXX, Son of Late Mishri Yadav, Resident of Village - Tajpur, P.S.- Barahiya,
Distt.- Lakhisarai, Under Guardianship and Natural / Legal Guardian of his
mother namely Manju Devi, aged about 58 Year, Gender- Female, Wife of late
Mishri Yadav, Resident of Village – Tajpur, Ward no.17, P.S.- Barahiya,
Distt.- Lakhisarai

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr. Rabi Bhushan, Advocate

For the Respondent/s : Mr. Ram Priya Sharan Singh, APP

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

4 05-08-2022 Heard learned counsel for the petitioner and Mr. Ram
Priya Sharan Singh, learned APP for the State.

The petitioner in the present case is seeking to challenge the order dated 24.03.2021 passed by the learned 1st Additional District and Sessions Judge-cum-Special Judge, Lakhisarai in J.J.B. No. 64 of 2021 arising out of Barahiya P.S. Case No. 89 of 2018 registered for the offences punishable under Sections 302, 34 of the Indian Penal Code whereby and whereunder the learned court below has rejected the prayer for bail of the petitioner.

Learned counsel for the petitioner submits that the petitioner has been adjudged juvenile aged about 17 years. He is in custody since 06.06.2018. He has no criminal antecedent.



Learned counsel submits that on perusal of the First Information Report, it would appear that on the issue of construction of a washroom on a piece of land in the village a dispute arose wherein the alleged occurrence took place between two families. It is submitted that the allegations are against co-accused Shankar Yadav @ Sahab Yadav and this petitioner that they had assaulted the deceased by an iron rod.

Learned counsel further submits that the petitioner has remained in custody for more than 4 years by now but till date the trial has not proceeded. It is pointed out as per the report received from the learned trial court the case is still fixed for supply of police paper and framing of charge.

As regards the social investigation report, it is submitted that the Probation Officer has not found anything adverse against the petitioner and he has also stated that the occurrence took place on account of a land dispute.

Mr. Ram Priya Sharan Singh, learned APP for the State has opposed the prayer for bail of the petitioner. It is submitted that the petitioner is one of the accused who had allegedly assaulted the deceased. It is, however, not denied that as per the post-mortem report only one ante-mortem injury has been found on the frontal bone of skull and there is no specific



allegation that the petitioner caused the said assault. The another ante-mortem injury noticed in the post-mortem report is the abrasion on the back of the left shoulder joint.

Having regard to the facts and circumstances of the case wherein this Court has noticed that the petitioner is a juvenile and he has already remained in the place of safety for about 4 years by now, the trial has yet not begun and the social investigation report is not suggesting any adverse thing against the petitioner, he has no criminal antecedent and there is no submission on behalf of the State that his release on bail at this stage is likely to result in tampering with the evidence or interfering with the course of trial and further considering that the mother 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, she 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 1st Additional District and Sessions Judge-cum-Special Judge, Lakhisarai in connection with J.J.B. No. 64 of 2021 arising out of Barahiya P.S. Case No. 89 of 2018.

One of the sureties shall be the mother of the petitioner and she 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, she 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.

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 steps 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.

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'.

