

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.486 of 2021

Arising Out of PS. Case No.-318 Year-2019 Thana- SITAMARHI District- Sitamarhi

(XXX) Son Of Hari Shankar Rai Resident Of Village- Laxmi Nagar, Mehsaul Gate, P.S. And District- Sitamarhi (Under The Guardianship Of His Father)
... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr. Hans Lal Kumar, Advocate

For the Respondent/s : Mr. Jai Narain Thakur, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 19-07-2022 Learned counsel for the petitioner is permitted to re-move all the defects as pointed out by the office within two weeks from today.

Heard learned counsel for the petitioner and Mr. Jai Narain Thakur, learned APP for the State.

The petitioner in the present case is seeking setting aside of the order dated 16.03.2021 passed by learned 15th Additional Sessions Judge-cum-Special Judge (Children's Court), Sitamarhi in Sitamarhi P.S. Case No. 318 of 2019 whereby and whereunder the order dated 11.12.2020 rejecting the prayer for bail of the petitioner registered for the offence punishable under Sections 302, 120B of the Indian Penal Code has been affirmed.

Learned counsel for the petitioner submits that as per the First Information Report, the co-accused Pintu Rai and Naushad were assaulting the son of the informant by a dagger



and they were giving the dagger blow on the stomach of the deceased. So far as this petitioner is concerned, it is alleged that he had caught hold of one of the hands of the deceased.

Learned counsel submits that it is a case of false implication of the petitioner and in course of investigation, the neighbours have not made any adverse remarks against him. He is said to be a juvenile aged about 16 years 6 months on the alleged date of occurrence.

Learned counsel further submits that the petitioner has no criminal antecedent, he has passed his matriculation examination and is presently continuing with his studies. It is submitted that the father will stand as a surety and furnish an undertaking that he will ensure that the petitioner remains connected with the mainstream of the society, pursue his studies and he would further take care that the petitioner does not fall in any bad company and in case the petitioner indulges in any unlawful act, he will inform it to the jurisdictional police station.

Mr. Jai Narain Thakur, learned APP for the State has though opposed the prayer for bail of the petitioner saying that the petitioner is said to be one of the accused who had participated in the alleged occurrence but does not deny that the petitioner has been adjudged juvenile and he is not the main as-



sailant as also that in the social investigation report, it is stated that the petitioner was used to be involved in his work and some of the persons have stated that he was not involved in this offence, keeping in view the spirit of Section 12 of 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 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 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 Sessions Judge-cum-Special Judge (Children Act), Sitamarhi in connection with Sitamarhi P.S. Case No. 318 of 2019.

One of the sureties should be the father of the petition-



ers and he will also furnish an undertaking that he will ensure that the petitioner remains connected with the mainstream of the society, pursue his studies and he would further take care that the petitioner does not fall in any bad company 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, Sitamarhi 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.

The application stands disposed of accordingly.

Certified copy of this order will be made available only after removal of the defects as pointed out by office.

(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'.

