

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.432 of 2022

Arising Out of PS. Case No.-26 Year-2021 Thana- ALIPUR District- Gaya

=====

Xxxxxx Son of Vijay Yadav Resident of village - Kuseta, P.S.- Alipur, District - Gaya through his brother and natural guardian namely Ayodhya Kumar aged about 28 years (Male) Son of Vijay Yadav, Resident of village - Kuseta P.S.- Alipur, District - Gaya

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

=====

Appearance :

For the Petitioner/s : Mr.Shailesh Kumar, Advocate

For the State : Mr.Md.Syed Mojibur Rahaman, APP

=====

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 02-12-2022 Heard learned counsel for the petitioner and Mr. Md. Syed Mojibur Rahaman, learned A.P.P. for the State.

Petitioner in the present case is seeking setting aside of the judgment dated 13.05.2022 passed by the learned 1st Additional Sessions Judge-cum- P.O., Children's Court, Gaya in Criminal Appeal (Juvenile) No.1/2022 whereby and whereunder the order dated 23.02.2021 refusing prayer for bail of the petitioner by learned A.C.J.M.-Cum Principal Magistrate, Juvenile Justice Board, Gaya in G.R. No. 832/21, Misc. No. 310/21 arising out of Alipur P.S. Case no. 26/2021 registered under Sections 302, 201/34 of the Indian Penal Code has been affirmed.

Learned counsel for the petitioner submits that the petitioner is the devar of the deceased and is younger member of



the family. The petitioner is doing some daily wages job in a bank to sustain his livelihood. In the First Information Report, there is no specific allegation against the petitioner.

It is submitted that the petitioner has been adjudged juvenile aged about 16 years and 13 days on the alleged date of occurrence and his elder brother namely Ayodhya Kumar is ready to stand as surety and give 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.

Learned A.P.P. for the State has though opposed the prayer for bail of the petitioner but has submitted that the petitioner has been adjudged juvenile.

Having regard to submissions that the petitioner happens to be the devar of the deceased and he is one of the family members who has been implicated in this case, he was said to be doing some daily wages job in a bank to sustain his livelihood and has been found aged about 16 years and 13 days on the alleged date of occurrence, there being no other materials against the petitioner and he has no other criminal antecedents, his elder brother namely Ayodhya Kumar shall 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 ACJM-cum-Principal Magistrate, Juvenile Justice Board, Gaya in connection with G.R. No. 832 of 2021, Misc. No. 310 of 2021 arising out of Alipur P.S. Case No. 26 of 2021.



One of the sureties shall be the elder brother 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, Gaya 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)

tusharika/-

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

