

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.510 of 2021**

Arising Out of PS. Case No.-146 Year-2019 Thana- BIHPUR District- Bhagalpur

XXX, Son of Bhusan Singh @ Fusan Singh Resident of Village- Auray, Ward
No.7, P.S.- Puraini, District- Madhepura.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

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

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

4 14-07-2022 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 06.07.2021 passed by learned 1st Additional District and Sessions Judge – cum – Special Judge (Children), Bhagalpur in Special Case (Children) No. 05/2021 arising out of Bihpur (Jhandapur) P.S. Case No. 146/2019 registered for the offence under Sections 394, 302, 397 of the I.P.C. and 27 of the Arms Act whereby and whereunder the learned Judge has been pleased to refuse the regular bail of the petitioner.

As per the prosecution story, the informant has alleged that on 12.05.2019 at about 11:00 P.M. while he along with his cousin brother namely, Ranjan Roy were returning after Tilak Ceremony of his cousin sister on motorcycle. At 11:45 P.M. when they reached one and half kilometer towards west



ahead of Kharik Railway over Bridge on NH31, in the meantime, four criminals riding on motorcycle stopped them and threw the key of motorcycle in the bush, thereafter one of the criminals shot at Ranjan Roy on his chest due to which he fell down. The informant further alleged that the accused persons also shot at him due to which he fell down sustaining fire-arm injury in his ribcage. They had also taken away mobile and purse of the informant. Thereafter, all the accused persons fled away towards Naugachhia on the motorcycle. The informant and Ranjan Roy were brought to Khagaria where Ranjan Roy was declared dead and the informant was referred to Kalpana Nursing Home, Begusarai for better treatment.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. The petitioner is not named in the F.I.R. Name of the petitioner has transpired in the confessional statement of co-accused Dharo Singh who has been granted bail by a learned coordinate Bench of this Court in Cr. Misc. No. 54821/2021. Learned counsel submits that petitioner is in custody since 25.01.2021 and his father is ready to stand as a surety and furnish an undertaking that if released on bail he would ensure that the petitioner does not get



involved in commission of any crime and he would further ensure that the petitioner is duly involved either in his study or at work and, in case, the petitioner is found involved in any offence hereafter, he will immediately report to the jurisdictional police station.

It is further submitted that in the case of **Lalu Kumar and Ors. versus The State of Bihar** reported in **2019 (4) PLJR 833** the Hon'ble Division Bench of this Court has held that classification of the offences under the bailable or 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.”

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

Having regard to the submission that the petitioner has been adjudged aged about 15 years 4 months and 13 days on the alleged date of occurrence, the F.I.R. is against unknown and the name of the petitioner has transpired in the confessional statement of the co-accused Dharo Singh who has been granted



bail by a learned coordinate Bench of this Court in Cr. Misc. No. 54821/2021 vide order dated 20.11.2019 and another co-accused Ravi Singh has also been granted bail in Cr. Misc. No. 3971/2020, this petitioner is in the observation home since 25.01.2021 and he has though two criminal antecedents but in both the cases he has been released on bail, the social investigation report does not disclose any criminal mindset of the petitioner though it states that he seems to have fallen in bad company and requires counseling and rehabilitation, keeping in view the spirit of section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and the judgment of the Hon'ble Division Bench of this court in the case of **Lalu Kumar (supra)** as also that his father is ready to stand as a surety and furnish an undertaking, as stated above, 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 Special Judge, Children Act, Bhagalpur in connection with Special Case (Children) No. 05/2021 arising out of Bihpur (Jhandapur) P.S. Case No. 146/2019.

Subject to condition that the one of the sureties shall



be the father of the petitioner and furnish an undertaking that if released on bail he would ensure that the petitioner does not get involved in commission of any crime and he would further ensure that the petitioner is duly involved either in his study or at work and, in case, the petitioner is found involved in any offence hereafter, he will immediately report to the jurisdictional police station.

The Probation Officer attached to the Juvenile Justice Board, Bhagalpur shall keep the vigil over the conduct of the petitioner and shall keep on submitting his periodical report to the Juvenile Justice Board, Bhagalpur.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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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'.

