

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM THE RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.446 of 2022**

Arising Out of PS. Case No.-130 Year-2020 Thana- MAHISHI District- Saharsa

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Xxxxx SON OF BILASH YADAV R/O VILLAGE- TILATHI, P.S.-
BAKHTIYARPUR, DISTT.- SAHARSA (UNDER GUARDIANSHIP OF
ABOVE NAMED FATHER)

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Petitioner/s : Mr.Prafull Chandra Thakur, Advocate

For the Respondent/s : Mr.Akhileshwar Dayal, APP

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

4 18-11-2022 Heard learned counsel for the petitioner and Mr.
Akhileshwar Dayal, learned APP for the State.

Petitioner in the present case is seeking setting aside of the
impugned order dated 26.04.2022 passed in Cr. Appeal No. 17 of
2022 by learned Additional Sessions- I- cum Special Judge, Children
Court, Saharsa, whereby and whereunder prayer for bail of the
petitioner has been rejected in connection with Mahishi P.S. case no.
130 of 2020 registered for the offences under Sections 147, 148,
149, 302 of the I.P.C. and under Section 27 of the Arms Act in which
Sections 25(1-B)a, 26, 35 of the Arms Act were added subsequently.

Learned counsel for the petitioner submits that from the
First Information Report it will appear that the petitioner is named in
the F.I.R. as one among the eight accused persons but there is no
specific allegations of commission of overt act against the petitioner.
It is further submitted that the petitioner has been adjudged juvenile



aged about 17 years 3 months and 6 days on the alleged date of occurrence.

It is further submitted that the petitioner has been made accused in one more case being Saharsa P.S. Case no. 700 of 2021 registered for the offences under Sections 25(1-B)a, 26 and 35 of the Arms Act but so far as the instruction in this regard available to the petitioner is concerned, the petitioner has been named in the confessional statement of the co-accused in the said case and there is no recovery of any weapon from his possession.

It is further submitted that in the Social Investigation Report it has come that the petitioner is interested in studies and the alleged occurrence seems to have taken place because of some trivial issues which had arisen in past. It is also submitted that 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.

Mr. Akhileshwar Dayal, learned APP for the State has though opposed the prayer for releasing of the petitioner on bail but he has submitted after going through the Social Investigation Report that the petitioner is set to be interested in studies and there is otherwise no adverse material against him.

In the given facts and circumstances of the case, considering that the petitioner has been adjudged juvenile and the



Social Investigation Report is saying that he is interested in studies and his family is capable of taking care of 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 Ist Additional Session Cum Special Judge (Children), Saharsa in connection with Mahishi P.S. case no. 130 of 2020.



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, Saharsa 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'.

