

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.520 of 2021

Arising Out of PS. Case No.-227 Year-2020 Thana- SIKARPUR District- West Champaran

SUDISH KUMAR GIRI @ SUDISH KUMAR through his father Mainegar
Kumar Giri Resident of Village- Ramnagar Bankat, Police Station-
Majhauriya, District- West Champaran.

... .. Petitioner

Versus

The State Of Bihar

... .. Respondent

Appearance :

For the Petitioner/s : Mr. Anant Kumar Mishra, Advocate
For the Respondent/s : Mrs. Pushpa Sinha, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 08-03-2022 Heard learned counsel for the petitioner and learned
APP for the State.

Learned counsel for the petitioner is directed to
remove the defects, as pointed out by the Office, within a period
of four weeks.

This criminal revision application has been preferred
against the order dated 23.02.2021 passed in Bail Petition No.
640 of 2021 by which learned 1st Additional District & Sessions
Judge-cum- Special Judge, (Child Court) SC/ST), Bettiah, West
Champaran has rejected the prayer for bail of the petitioner in
connection with Shikarpur P.S. Case No. 227 of 2020 (Special
Case No. 11 of 2020) registered for the offences under sections
20, 22, 23 and 24 of the N.D.P.S. Act.



The prosecution story, in brief is that the 5 kg charas has been recovered from the motorcycle.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 12.05.2020 and has got no criminal antecedent. Charge-sheet has been submitted in the present case. There is no allegation of tampering alleged against the petitioner. As per the allegation, 5 kg charas is said to have been recovered from the dikky of the motorcycle which the petitioner was riding. Learned counsel for the petitioner further submits that the mother of the petitioner is ready to furnish an undertaking that while on bail, she will not allow the petitioner to associate with criminals or anti-social elements. The petitioner has relied upon the judgment of ***Lalu Kumar and Ors. Vs. The State of Bihar (reported in 2019(4) PLJR 833)*** where a Division Bench of this Court while considering the scope of Section 12 of the Juvenile Justice Act, 2015 in paragraph no. 84 of the judgment has observed the following:

“84. While interpreting Section 12, the Board is duty bound to be guided by the fundamental principles enumerated in Section 3 of the Act of 2015, specially the principles of ‘best interest’, ‘repatriation’ and ‘restoration’ of child. The fundamental principles in Section 3(xii) provides that a child shall be placed in institutional care as a step of last resort after making a reasonable inquiry. The gravity and nature of the offence are immaterial for consideration of bail under



the Act of 2015. As per Section 12 of the Act of 2015, an application for bail is not decided by reference to classification of offences, as bailable or non-bailable under the Cr.P.C. All persons alleged to be in conflict with law and apparently a child when apprehended must be released except in the following three circumstances when there is reasonable ground for believing that:-

- (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 psychological danger; and
- (iii) The release would defeat the ends of justice.”

Learned A.P.P. for the State is present and has opposed the prayer for bail of the petitioner. He further submits that the recovered contraband is above the commercial quantity. Hence, as per the Section 37 of the N.D.P.S. Act, the petitioner is not entitled for bail.

Having regard to the facts and circumstances of the case, Social Investigation Report of the petitioner was called for from the concerned Probation Officer. The Probation Officer in his report has reported that the petitioner is a clever and cunning boy. Further it has been reported that most of his friends are involved in suspicious activities. The petitioner intends to earn more money within a short span of time. There is lack of discipline and parental control in the family of the petitioner.

Considering the facts and circumstances of the case as well as the findings of the Probation Officer in the Social



Investigation Report of the petitioner, this Court is not inclined to grant bail to the petitioner. Prayer is rejected. The Court below is directed to take all necessary steps to conclude the trial at the earliest preferably within a period of six months from the date of receipt/production of a copy of this order taking into account that the petitioner is in custody since 12.05.2020.

The criminal revision application is dismissed.

(Sudhir Singh, J)

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