

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.550 of 2021

Arising Out of PS. Case No.-577 Year-2020 Thana- LAKHISARAI District- Lakhisarai

BADAL KUMAR S/o DINANATH SINGH Under the guardianship of his father namely Dinanath Singh aged 45 year, male S/o Dinanath Singh R/o village- Dadaur, P.S.- Bakhtiarpur, Distt.- Patna

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Respondent

Appearance :

For the Petitioner/s : Mr.Rajani Ranjan Pd. Singh, Advocate
For the Respondent/s : Mr.Nirmal Kumar Sinha, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 20-05-2022 Heard learned counsel for the petitioner and learned APP for the State through virtual mode.

This criminal revision application has been preferred against the judgment dated 29.07.2021 passed in Cr. Appeal No. 18/21 whereby and whereunder the learned Additional Sessions Judge-cum- Special Court-1st, Lakhisarai has dismissed the appeal and has confirmed the order dated 21.06.2021 whereby learned Juvenile Justice Board, Lakhisarai has rejected the prayer for bail of the petitioner in connection with G.R. No. 1658/20 arising out of Lakhisarai P.S. Case No. 577/20 registered for the offences under sections 364(A), 120(B) and 34 of the Indian Penal Code.

The prosecution story, in brief is that the unknown



accused person abducted the brother of the informant.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 16.11.2020 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. The petitioner is not named in the F.I.R. The name of the petitioner has transpired on the basis of confessional statement of co-accused recorded under Section 161 Cr.P.C. before the Police. The victim has recovered and his statement under section 164 Cr.P.C. has been recorded in which he has not named the petitioner. Learned counsel for the petitioner further submits that the father of the petitioner is ready to furnish an undertaking that while on bail, he 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.

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 petitioner has cordial relationship with his parents and other family members. The neighbours of the petitioner have not stated anything adverse against him. It has further been suggested that the petitioner may be released under the guardianship of his parents so that his studies do not get hamper. Further the report does not reveal that there is any material to substantiate that in the event of grant of bail, the



petitioner is likely to go into association of known criminals or any anti-social elements.

The law requires that reasonable grounds should be there for believing that in the event of grant of bail, the petitioner would go into association of any 'known criminal' or exposed to moral, physical and psychological danger or the release of the person would defeat the ends of justice. There is no reference of any known criminal nor there is any other substantive material for the conclusion as recorded by the Court below.

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 and the proposition of law as stated above, this criminal revision application is allowed and the judgment dated 29.07.2021 passed in Cr. Appeal No. 18/21 by learned Additional Sessions Judge-cum- Special Court-1st, Lakhisarai and the order dated 21.06.2021 passed by learned Juvenile Justice Board, Lakhisarai in G.R. No. 1658/20 arising out of Lakhisarai P.S. Case No. 577/20 , are set aside.

Let the petitioner, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of father on execution of surety bond of Rs. 10,000/- (ten



thousand) to the satisfaction of learned Juvenile Justice Board, Lakhisarai in connection with G.R. No. 1658/20 arising out of Lakhisarai P.S. Case No. 577/20 with the condition that the father of the petitioner shall furnish an undertaking that while the petitioner is on bail, he will not allow the petitioner to come in company/association with any criminal or anti social elements that he will take proper care of the petitioner. Further the petitioner will be produced as and when required by the Court below and shall cooperate during the trial.

(Sudhir Singh, J)

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