

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.531 of 2021

Arising Out of PS. Case No.-796 Year-2019 Thana- JAKKANPUR District- Patna

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DIVESH KUMAR @ RISHAV RAJ Son of Chandramani Kumar through his father chandramani Kumar, resident of village- Mai, P.S. - Parwalpur, District - Nalanda and present residing at khas Mahal, Road No. -1, Devi Asthan Chiraiyatad, P.S. - Jakkanpur, District - Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Niraj Kumar, Advocate
For the Respondent/s : Mr.Ajit Kumar, APP

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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 26.07..2021 passed in Cr. Appeal No. 67 of 2021 by which the learned 1st Additional District & Sessions Judge-cum- Special Judge, (Children Court), Patna has rejected the prayer for bail of the petitioner and upheld the order dated 02.06.2021 passed by learned Juvenile Justice Board, Patna in J.J.B. No. 469/2020 arising out of Jakkanpur P.S. Case No. 796 of 2019 registered for the offences under



section 302 of the Indian Penal Code.

Prosecution story, in brief is that the unknown accused persons committed murder of the father of the informant.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 17.02.2020. 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 of Cr.P.C. before the Police. 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 the petitioner has got involved in this case due to his bad company with aged anti social elements. The petitioner needs counselling from a psychologist and guidance in order to avoid company of bad elements.

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 17.02.2020.

The criminal revision application is dismissed.

(Sudhir Singh, J)

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