

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.560 of 2021

Arising Out of PS. Case No.-39 Year-2020 Thana- DEO District- Aurangabad

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DILAR BHUIYAN @ SANOJ KUMAR @ SANUJ KUMAR Son of
Lakshman Bhuiyan Resident of Village- Vishnu Bandh, P.S.- Deo, District-
Aurangabad, under the guardianship of his natural father.

... .. Petitioner/s

Versus

The State of Bihar (Under the natural guardianship of Lakshman Bhuiyan, the
natural father of the petitioner).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Dewendra Narayan Singh, 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.

Counsel for the petitioner is directed to remove the
defect(s), as pointed out by the office, within a period of four
weeks.

This criminal revision application has been preferred
against the judgment and order dated 01.07.2021 passed in
Criminal (Juvenile) Appeal No.22/21 of 17/21, CIS No.22/21,
whereby and whereunder the learned Additional District and
Sessions Judge 1st-cum-Special Judge, Children Court,
Aurangabad has upheld the order dated 09.04.2021, whereby
learned Juvenile Justice Board, Aurangabad has rejected the
prayer for bail of the petitioner in connection with Juvenile



Justice Board (JJB) case No.645 of 2021, G.R. No.728 of 2020 arising out of Deo P.S. case No.39 of 2020 registered for the offences under Sections 147, 148, 149, 341, 323, 324, 354, 504, 307, 302 of the Indian Penal Code.

The prosecution case, in brief, is that the accused persons including the petitioner tried to commit molestation on two girls and when they raised alarm, sons of the informant, namely, Deepu Bhuiya and Deepak Bhuiya came in rescue and thereafter the accused persons fled away. It is further alleged that later on, other eight FIR named accused persons, armed with several weapons, came to the house of the informant and brutally assaulted both sons of the informant, as a result of which, they received serious injury and during course of treatment, both sons of informant died.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 19.05.2020 and has got no criminal antecedent. Charge sheet has been submitted in the present case. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has falsely been implicated in the present case. General and omnibus allegation has been made against the petitioner. No specific allegation alleged against the petitioner. Learned counsel for the petitioner



further submits that the brother 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. From perusal of the report, it appears that there is no 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 and order dated 01.07.2021 passed in Criminal (Juvenile) Appeal No.22/21 of 17/21, CIS No.22/21 arising out of Deo P.S. case No.39/2020 by the learned Additional District and Sessions Judge 1st-cum-Special Judge, Children Court, Aurangabad and the order dated 09.04.2021 passed by the learned Juvenile Justice Board, Aurangabad in connection with Juvenile Justice Board (JJB) case No.645 of 2021, G.R. No.728 of 2020 arising out of Deo P.S. case No.39 of 2020 are set aside.

Let the petitioner, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of brother of the petitioner on execution of surety bond of Rs.10,000/- (Rupees ten thousand) to the satisfaction of learned Juvenile Justice Board, Aurangabad in connection with Juvenile Justice Board (JJB) case No.645 of 2021, G.R. No.728 of 2020 arising out of Deo P.S. case No.39 of 2020 with the condition that the brother 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 co-operate during the trial.

(Sudhir Singh, J)

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