

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.565 of 2021

Arising Out of PS. Case No.-175 Year-2019 Thana- PAHARPUR District- East Champaran

Alok Pandey @ Alok Kumar Pandey Son Of Radha Pandey Resident Of Village- Nauwadih, P.S.- Paharpur, District- East Champaran, Through His Father/Guardian, About 51 Y/M, Son Of Asrafi Pandey, Resident Of Village- Nauwadih, P.S.- Paharpur, District- East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Abhishek Kumar, Adv.
For the Respondent/s	:	Mr.Abhay Kumar, APP
For the informant	:	Mr. Madhurendra Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL ORDER

4 09-03-2022 Heard learned counsel for the petitioner and learned
APP for the State.

This Criminal Revision has been preferred against the judgment dated 19-12-2000 passed by the learned Additional Sessions Judge-Ist, Motihari, East Champaran in Criminal Appeal No. 22 of 2020, whereby and where under the learned Additional Sessions Judge-Ist, Motihari, East Champaran has affirmed the order dated 22-09-2020 passed by the Juvenile Justice Board, Motihari, East Champaran in J. J.B. Trial No. 1018 of 2020 arising out of Paharpur P.S. case No. 175 of 2019, whereby learned Juvenile Justice Board, Motihari, East Champaran has rejected the prayer for bail of the petitioner in connection with J. J.B. Trial No. 1018 of 2020 arising out of



Paharpur P.S. case No. 175 of 2019, registered under Sections 302, 34 of the Indian Penal Code.

Allegation is that four named and two unknown persons entered into house of the informant and co-accused Vivek Giri assaulted his brother with knife causing serious injury. The informant's brother was taken to Primary Health Centre, Paharpur where he was declared dead by the doctor.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 07-06-2019 and there is no allegation of tampering of witnesses alleged against the petitioner. The charge sheet has been submitted. The petitioner is not named in the FIR. Four named and two unknown persons entered into house of the informant. The specific allegation of assault is against co-accused namely Vivek Giri. 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 released 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 is studious boy and wants to pursue his further study. 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 substantial 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 19-12-2020 passed by the learned Additional Sessions Judge-Ist, Motihari, East Champaran in Criminal Appeal No. 22 of 2020 and the order dated 22-09-2020 passed by the Juvenile Justice Board, Motihari, East Champaran in J. J.B. Trial No. 1018 of 2020 arising out of Paharpur P.S. case No. 175 of 2019 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 Principal Magistrate, Juvenile Justice Board, Motihari, East Champaran in connection with J.J.B. Trial No. 1018 of 2020 arising out of Paharpur P.S. Case No. 175 of 2019, with condition that 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 the petitioner will be produced as and when required by the court below and shall cooperate during the trial.

(Sudhir Singh, J)

A.K.V.//-

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