

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.628 of 2021**

Arising Out of PS. Case No.-48 Year-2019 Thana- BEGUSARAI MUFFASIL District-
Begusarai

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Vishal Kumar S/O Anil Singh R/O Village-Malpur Pipariya, P.S-Pipariya,
District-Lakhisarai.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Mukesh Kumar, Advocate
For the Respondent/s : Mr. Arun Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 22-04-2022 Heard learned counsel for the petitioner and the State
through virtual mode.

Learned 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 has been preferred against the
judgment dated 29-06-2021 passed by the learned Addl.
Sessions Judge-Ist-cum-P.O. of Children Court, Begusarai in
J.J.C.P.-11 of 2021 arising out of Muffasil P.S. Case No. 48 of
2019, whereby and where under the learned Addl. Sessions
Judge-Ist-cum-P.O. of Children Court, Begusarai has affirmed
the order dated 03-08-2019 passed by Juvenile Justice Board.,
Begusarai in J.J.B. No. 132 of 2019, whereby Juvenile Justice



Board., Begusarai has rejected the prayer for bail of the petitioner in connection with J.J.B. Case No. 132 of 2019 arising out of Muffasil P.S. Case No. 48 of 2019, registered under Sections 392 of the Indian Penal Code.

Allegedly, the motorcycle of the informant was looted away by three miscreants.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 27-06-2019. There is no allegation of tampering of witnesses alleged against the petitioner. Charge sheet in this case has already been submitted. The petitioner is not named in the FIR. Three unknown persons intercepted the informant in the way and snatched away his motorcycle. The name of the petitioner has transpired in this case on the basis of confessional statement of co-accused recorded under Section-161 of the Cr.P.C. There is no recovery of any incriminating article from possession of the petitioner. The petitioner has not been put on test identification parade for ascertaining the participation of the petitioner in the alleged crime. 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 neighbours of the petitioner have told that the petitioner is a studious boy and they have no complaint against him. Further, considering the further of the petitioner and his likelihood of reform, the petitioner may be given the benefit of Juvenile Justice (Care & Protection) Act, 2015.

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 29-06-2021 passed by learned Additional Sessions Judge-1-cum-Children's Court, Begusarai in J.J.C.P 11 of 2021 and the order dated 03-08-2019 passed by learned Juvenile Justice Board, Begusarai in J.J.B. Case No. 132 of 2019 arising out of Muffasil P.S. Case No. 48 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 Juvenile Justice Board, Begusarai in connection with J.J.B. Case No. 132 of 2019 arising out of Muffasil P.S. Case No. 48 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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