

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.623 of 2021**

Arising Out of PS. Case No.-73 Year-2018 Thana- BUNIYAD GANJ District- Gaya

1. XXX S/O Madhusudan Manjhi R/O Village-Govindpur, P.S- Belaganj, District-Gaya through his father and natural guardian namely, Madhusudan Manjhi aged about 42 years (Male) S/O Gaya Manjhi, R/O Village-Govindpur, P.S-Belaganj, District-Gaya.
2. XXX S/O Sudin Manjhi R/O Village-Chhotki Chainpur, P.S-Parasbigha, District – Jehanabad, through his father and natural guardian namely, Sudin Manjhi aged about 49 years (Male) S/O Rajendra Manjhi R/O Village-Chhotki Chainpura, P.S-Parasbigha, District-Jehanabad.

... .. Petitioners

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner/s : Mr.Shailesh Kumar, Advocate
For the Respondent/s : Mr.Akhileshwar Dayal, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

3 20-07-2022 Learned counsel for the petitioners has undertaken to remove the remaining defects within one week from today.

Heard learned counsel for the petitioners and Mr. Akhileshwar Dayal, learned A.P.P. for the State.

Petitioners, in the present case, are seeking setting aside of the judgment dated 21.08.2021 passed by learned Special Judge (Children Court), Gaya in Criminal Appeal (Juvenile) No. 44/2021 (C.I.S.) as well as order dated 02.07.2021 passed by learned A.C.J.M. cum Principal Magistrate, Juvenile Justice Board, Gaya in G.R. No. 2509/2018, Misc. No. 30/21 whereby and whereunder the



prayer for bail of the petitioners is rejected in connection with Buniyadganj P.S. Case No. 73/2018 registered under Section 302, 201/34 of the Indian Penal Code.

Learned counsel for the petitioners submits that the names of the petitioners have transpired in the confessional statement of the co-accused Arti Kumari. The deceased was allegedly having an illicit relationship with said Arti Kumari because of which when he entered in her house, her husband Mordhwaj Manjhi and other members of the family namely, Shrawan Manjhi and these petitioners, who are the cousin brothers of Mordhwaj Manjhi, had allegedly caught hold of him and as per the confessional statement, Mordhwaj Manjhi had tied his Gamchha over the neck of the deceased and pressed that as a result whereof he died.

Learned counsel submits that the petitioners are cousin brothers of the husband of Arti and they have been falsely implicated in this case merely on the basis of confessional statement. They are juvenile and have been adjudged a little more than 16 years of age on the date of alleged occurrence. They have no criminal antecedent. The co-accused Shrawan Manjhi has already been granted bail by a learned coordinate Bench of this court in Cr. Rev. No. 111 of



2019 vide order dated 05.03.2019, the petitioners have remained in the juvenile remand home since 02.02.2021 and their father is ready to stand as a surety and furnish an undertaking that he will take both the petitioners with himself and shall ensure their studies as well as that they would not fall in bad company and connect them with the mainstream of the society.

Mr. Akhileshwar Dayal, learned A.P.P. for the State has opposed the prayer for bail of the petitioners but it is admitted that except the confessional statement in which the names of the petitioners have transpired there is no other material in the case diary. The social investigation report does not indicate any past criminal antecedent.

In the circumstances noted hereinabove and the materials available on the record, on finding that the petitioners have been found little more than 16 years of age, they have otherwise no criminal antecedent, their father is ready to stand as a surety and furnish an undertaking that if released on bail he will take care of the study of the petitioners by taking them to his place of work and shall ensure that they do not fall in bad company and in case the petitioners indulge in any unlawful act, he will inform it to the jurisdictional police station as also following the spirit of section 12 of the Juvenile Justice (Care



and Protection of Children) Act, 2015 and in view of the exceptions carved out by the Hon'ble Division Bench of this Court in the case of **Lalu Kumar and Ors. Vs. The State of Bihar reported in 2019 (4) PLJR 833** that classification of the offences under the bailable and non-bailable sections would not be relevant for purpose of grant of bail to a juvenile and the prayer for bail of a juvenile may be rejected only under one of the three conditions as under:-

- “(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 physiological danger; and
- (iii) The release would defeat the ends of justice.”

this court sets-aside the impugned order and directs release of the petitioners on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned A.C.J.M. - cum – Principal Magistrate, Juvenile Justice Board, Gaya in connection with Buniyadganj P.S. Case No. 73 of 2018.

One of the sureties should be the father of the petitioners and he will also furnish an undertaking that if released on bail, the petitioners shall not be allowed to come in contact of any bad element and in case the petitioners indulge in any unlawful act, he will inform it to the jurisdictional police



station.

The Probation Officer shall keep on visiting the place of the petitioners and shall submit periodical report to the Juvenile Justice Board, Gaya as regards the conduct of the petitioners. If anything adverse is found against the petitioners, the same will also be reported to the Board for necessary action.

Certified copy of the order will be made available only after removal of the defects, as pointed out by office.

(Rajeev Ranjan Prasad, J.)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

