

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.659 of 2021

Arising Out of PS. Case No.-129 Year-2021 Thana- KAUWAKOL District- Nawada

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RAUSHAN KUMAR S/O SRI BRIJ MOHAN SINGH @ BRIJNANDAN
SINGH R/o village- Benipur, P.S.- Kawakole, District- Nawada, through his
mother and natural guardian Tara Devi (Female) aged about 44 years, W/o
Brij Mohan Singh, R/o village- Benipur, P.S.- Kawakole, District- Nawada

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Deepak Kumar, Advocate

For the Respondent/s : Mr.Jagdhar Prasad, APP

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 01-02-2022 Due to the third wave of COVID-19 Pandemic, the

matter is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading ‘For
Orders’ under the orders of Hon’ble the Chief Justice.

Heard learned counsel for the petitioner and learned
APP for the State through virtual mode.

This criminal revision application has been preferred
against the judgment dated 22.09.2021 passed by 1st Additional
Sessions Judge-cum- Special Judge, Nawada in Cr. Appeal No.
26/2021 whereby and whereunder the learned Special Judge has
upheld the order dated 28.07.2021 passed by learned J.J.B.,
Nawada in G.R./C No. 1777/2021/J.I.N. 821/2021 whereby
learned Juvenile Justice Board, Nawada has rejected the prayer



for bail of the petitioner in connection with Kawakole P.S. Case No. 129/2021 registered for the offences under sections 392, 395 and 412 of the Indian Penal Code.

The prosecution story, in brief is that the four unknown miscreants looted motorcycle of the informant on gun point.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 11.05.2021. 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 case was instituted against unknown person. The name of the petitioner has transpired in the present case on the basis of confessional statement of co-accused recorded under Section 161 of Cr.P.C. Except for this, there is no other substantive evidence to suggest the implication of the petitioner in the present case. There is no recovery of any incriminating articles from the possession of the petitioner. Learned counsel for the petitioner further submits that the mother of the petitioner is ready to furnish an undertaking that while on bail, she 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 neighbours of the petitioner have



not stated anything adverse against him. 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.

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 defect 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.

Hence, the impugned order, suffers from failure to exercise jurisdiction vested in law, is result of error apparent on the fact of the record and non-consideration of provisions of law. Accordingly, this Criminal Revision application is allowed and the judgment dated 22.09.2021 passed by 1st Additional Sessions Judge-cum- Special Judge, Nawada in Cr. Appeal No. 26/2021 and the order dated 28.07.2021 passed by learned J.J.B., Nawada in G.R./C No. 1777/2021/J.I.N. 821/2021 arising out of Kawakole P.S. Case No. 129/2021, are set aside.

Let the petitioner, who has already been declared



juvenile by the learned Juvenile Justice Board, be released in favour of his mother on execution of surety bond of Rs. 10,000/- (ten thousand) to the satisfaction of learned J.J.B., Nawada in G.R./C No. 1777/2021/J.I.N. 821/2021, arising out of Kawakole P.S. Case No. 129/2021 with the condition that the mother of the petitioner shall furnish an undertaking that while the petitioner is on bail, she will not allow the petitioner to come in company/association with any criminal or anti social elements that she will take proper care of the petitioner. Further the petitioner will be produced as and when required by the Court below and shall cooperate during the trial.

(Sudhir Singh, J)

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