

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.658 of 2021

Arising Out of PS. Case No.-200 Year-2020 Thana- PAKARIBARAW District- Nawada

CHANDAN KUMAR Son of Uttam Yadav @ Doman Yadav Resident of
Village- Islamnagar, P.S.- Chandradeep, District- Jamui.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner/s : Mr.Rudal Singh, Advocate

For the Respondent/s : Mr.Nawal Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 20-05-2022 Heard learned counsel for the petitioner and learned
APP for the State through virtual mode.

This criminal revision application has been preferred against the order dated 04.09.2021 passed in Cr. Appeal No. 23/2021 by which the learned 1st Additional District & Sessions Judge-cum- Special Judge, Nawada has affirmed the order dated 17.07.2021 passed in CR/C 2122/2020/J.I.N. 752/2020 by which learned Juvenile Justice Board, Nawada has rejected the prayer for bail of the petitioner in connection with Pakaribarawan P.S. Case No. 200/2020 registered for the offences under Section 392 of the Indian Penal Code.

The prosecution story, in brief is that the unknown accused persons looted the informant.

It has been submitted on behalf of the petitioner that



the petitioner is in custody since 15.9.2020. Charge-sheet has been submitted in the present case. There is no allegation of tampering alleged against the petitioner. The petitioner has falsely been implicated in the present case. The petitioner is not named in the F.I.R. 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. before the police. 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. The petitioner has not been put on T.I.P. to ascertain his participation in the alleged occurrence. 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 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 petitioner has cordial relationship with his parents and other family members. 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 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 order dated 04.09.2021 passed in Cr. Appeal No. 23/2021 by learned 1st Additional District & Sessions Judge-cum-Special Judge, Nawada and the order dated 17.07.2021 passed by learned Juvenile Justice Board, Nawada in CR/C 2122/2020/J.I.N. 752/2020 arising out of Pakaribarawan P.S. Case No. 200/2020 , 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, Nawada in connection with Cr/C 2122/2020/J.I.N. 752/2020



arising out of Pakaribarawan P.S. Case No. 200/2020 with the condition that the 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 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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