

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.662 of 2021**

Arising Out of PS. Case No.-587 Year-2020 Thana- MASHRAK District- Saran

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AJAY KUMAR RAY @ AJAY KUMAR S/o Chaukidar Ray @ Shankar Ray  
R/o Village- Masharak Taraiya Road Gopalbari, P.S.- Masharak, District-  
Saran. Under Guardianship of His father Chaukidar Ray @ Chakudar Ray @  
Shankar Ray, S/o Ganesh Ray, R/o Village- Masharak Taraiya Road  
Gopalbari, P.S.- Masharak, District- Saran.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.Sanjay Kumar Jha  
For the Respondent/s : Mrs. Pushpa Sinha, APP

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**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 judgment dated 16.04.2021 passed in Cr. (Juvenile) Appeal No. 10 of 2021 by which the learned 1<sup>st</sup> Addl. Sessions Judge, Saran at Chapra has affirmed the order dated 22.02.2021 passed in J.J.B.. Case No. 900/21 by which learned Juvenile Justice Board, Chapra has rejected the prayer for bail of the petitioner in connection with Mashrakh P.S. Case No. 587/2020 registered for the offences under section 304(B) IPC and 3 and 4 of D.P. Act.

The prosecution story, in brief is that the daughter of



the informant performed love marriage with the petitioner and later she was found lying on road in unconscious condition having injury on body and later died.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 02.11.2020 and has got no criminal antecedent. 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. As per prosecution, the petitioner is alleged to be husband of the deceased. The petitioner, however, denies that he had ever solemnized marriage with the deceased. As per F.I.R. the dead body of the daughter of the informant was found lying on the road. The informant suspects the hand of the petitioner in the death of his daughter. Except for suspicion, there is no other substantive evidence to suggest the implication of the petitioner in the present case. As per the post-mortem report, there is no external injury found on the body of the deceased. The doctor could not ascertain the cause of death and viscera has been preserved for chemical analysis. The petitioner has remained in custody for more than one and a half years. 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 some of the neighbours of the petitioner have stated that the petitioner and deceased never married each other. Further nothing adverse has been stated against the petitioner or his family members. It has been suggested that the petitioner may be released under the guidance of Probation Officer. Moreover, 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 judgment dated 16.04.2021 passed in Cr. (Juvenile) Appeal No. 10 of 2021 by learned 1<sup>st</sup> Addl. Sessions Judge, Saran at Chapra and the order dated 22.02.2021 passed in J.J.B.. Case No. 900/21 by learned Juvenile Justice Board, Chapra in connection with Mashrakh P.S. Case No. 587/2020, 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, Chapra, arising out of Mashrakh P.S. Case No. 587/2020 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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