

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.670 of 2021

Arising Out of PS. Case No.-52 Year-2021 Thana- MAHINDWARA District- Sitamarhi

BITTU KUMAR S/O HARDEO RAI R/o village- Bishwanthpur, P.S.-
Dumra, Distt.- Sitamarhi through his full brother Bipin Kumar, aged about 21
years S/o Hardeo Rai, R/o village- Bishwanathpur, P.S.- Dumra, District-
Sitamarhi

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ashok Kumar Jha, Advocate

For the Respondent/s : Mr.Satyendra 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 judgment and order dated 23.8.2021 passed in Cr. Appeal No. 20/2021 by which the learned 1st Additional Sessions Judge-cum- Special Judge, Children Court, Sitamarhi has affirmed the order dated 22.06.2021 passed in J.J.B. Case No. 1189/21 by which learned Juvenile Justice Board, Sitamarhi has rejected the prayer for bail of the petitioner in connection with Mahindwara P.S. Case No. 52/2021 registered for the offences under sections 30 and 30(a) of the Bihar Prohibition and Excise Act, 2016.

The prosecution story, in brief is that 71 liters of wine



was recovered from car.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 28.3.2021. 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. It is alleged that 72 liters wine is recovered from a car. The car in question does not belong to the petitioner. Nothing incriminating has been recovered from the conscious possession of the petitioner. The petitioner had no knowledge regarding the nature of goods kept in the car in question. There is no compliance of Section 100 Cr.P.C. Learned counsel for the petitioner further submits that elder brother 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 and he will take proper care of the petitioner and also take necessary steps so that the petitioner gets rid of his bad habits. 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. From perusal of the report, it appears that there is no 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 judgment and order dated 23.8.2021 passed in Cr. Appeal No. 20/2021 by learned 1st Additional Sessions Judge-cum- Special Judge, Children Court, Sitamarhi and the order dated 22.06.2021 passed in J.J.B. Case No. 1189/21 arising out of Mahindwara P.S. Case No. 52/2021 by learned Juvenile Justice Board, Sitamarhi are set aside.

Let the petitioner, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of elder brother on execution of surety bond of Rs. 10,000/- (ten thousand) to the satisfaction of learned Juvenile Justice Board, Sitamarhi in connection with Mahindwara P.S. Case No. 52/2021 with the condition that the elder brother 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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