

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.680 of 2021

Arising Out of PS. Case No.-21 Year-2021 Thana- SONPUR RAIL P.S. District- Saran

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ARJUN KUMAR Son of Subhash Singh Resident of Village- Thikha
Kakarahat, P.S.- Derni, District- Saran, PIN- 841222.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mrs. Kumari Rashmi, Advocate
For the Respondent/s : Mr. Anil Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 22-04-2022 Heard learned counsel for the petitioner and the State
through virtual mode.

Learned counsel for the petitioner is directed to remove
the defect(s) as pointed out by the office within a period of four
weeks.

This Criminal Revision has been preferred against the
judgment dated 05-08-2021 passed by the learned Ist Additional
Sessions Judge-cum-Children Court, Saran at Chapra in Criminal
(Juvenile) Appeal No. 17 of 2021, whereby and where under the
learned Ist Additional Sessions Judge-cum-Children Court, Saran at
Chapra has affirmed the order dated 24-04-2021 passed by the
Juvenile Justice Board, Saran at Chapra in J. Enquiry No. 175 of
2021, whereby the Juvenile Justice Board, Saran at Chapra has
rejected the prayer for bail of the petitioner in connection with J.
Enquiry No. 175 of 2021 arising out of Sonepur Rail P.S. Case No.



21 of 2021, registered under Sections 395 & 397 of the Indian Penal Code and 27 of the Arms Act.

Prosecution case in short is that the informant was returning from Muzaffarpur after participating in the CRPF Recruitment Test with his friends and while the train arrived at Sonepur Rly Station at 11.00 hrs, 8-10 persons boarded in the Coach, one of them who was aged about 22 years, got the informant awoken from the berth and asked to part with his money and mobile phones, otherwise will face consequences. It is further alleged that the informant gave him Rs. 2000/- and also took his cell phone and all have started snatch money and cell phones forcefully from the passengers on the gun point, and the persons who had got him awoken on the berth have fired from their pistol when he wanted to take back his cell phone, which caused injury on his thigh.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 31-03-2021. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner is not named in the FIR. Charge sheet in this case has already been submitted. The name of the petitioner has transpired in this case in confessional statement of co-accused recorded under Section 161 of the Cr.P.C. 10-12 persons are said to have looted the passengers of train. 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 released 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 stated that the
petitioner has good behaviour. 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 substantial 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 05-08-2021 passed by the learned Ist Additional Sessions Judge-cum-Children Court, Saran at Chapra in Criminal (Juvenile) Appeal No. 17 of 2021 and the order dated 24-04-2021 passed by the Juvenile Justice Board, Saran at Chapra in J. Enquiry No. 175 of 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 father on execution of surety bond of Rs.10,000/- (Ten Thousand) to the satisfaction of Juvenile Justice Board, Saran at Chapra in connection with J. Enquiry No. 175 of 2021 arising out of Sonapur Rail P.S. Case No. 21 of 2021, with condition that father of the petitioner shall furnish an undertaking that while the petitioner is on bail, father 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 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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