

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.704 of 2021

Arising Out of PS. Case No.-41 Year-2020 Thana- MAIN P.S. District- Gaya

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BABLOO MANJHI @ BABLOO KUMAR MANJHI @ BABLU MANJHI
Son of Ghamandi Manjhi Resident of Village- Chhakori Bigha (Chakauri Bigha), P.S.- Makhdumpur, District- Jehanabad under the guardianship of Ghamandi Manjhi, Aged about 54 Years (Male), (father/ guardian of the petitioner), Son of Ramshish Manjhi Resident of Village- Chhakauri Bigha, P.S.- Makhdumpur, District- Jehanabad.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

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Appearance :

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

For the Respondent/s : Mr.Ashok Kumar Singh, 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.

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 application has been preferred against the judgment dated 14.09.2021 passed in Criminal Appeal (Juvenile) No.46/2021 (C.I.S), whereby and whereunder the learned Special Judge (Children Court), Gaya has affirmed the order dated 21.06.2021, whereby learned Juvenile Justice



Board, Gaya has rejected the prayer for bail of the petitioner in connection with Men P.S. case No.41/2020/ POCSO case No.145/20, Misc. No.115/21 registered for the offences under Sections 376, 302, 201/34 of the Indian Penal Code.

The prosecution case, in brief, is that on 11.12.2020 when the daughter of the informant went to attend natural call, she did not return home. On search, she was found unconscious with the thread of salwar tied around her neck. She died while taking to PHC, Belaganj.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 18.12.2020 and has got no criminal antecedent. Charge sheet has been submitted in the present case. There is no allegation of tampering of witnesses alleged against the petitioner. The petitioner has falsely been implicated in the present case. The petitioner is not named in the F.I.R. His name has transpired in this case during course of investigation on the basis of secret information. The source and genuineness of secret information has not been disclosed by the prosecution. It is alleged that the daughter of the informant was missing. Later on, her dead body was found in the field. 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. The petitioner used to study in Middle School, Jagpura, Makhdumpur, Jehanabad. 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 judgment dated 14.09.2021 passed in Criminal Appeal (Juvenile) No.46/2021 by the learned Special Judge (Children Court), Gaya and the order dated 21.06.2021 passed by the Juvenile Justice Board, Gaya in connection with Men P.S. case No.41/2020/ POCSO case No.145/20, Misc. No.115/21, 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/- (Rupees ten thousand) to the satisfaction of Juvenile Justice Board, Gaya in connection with Men P.S. case No.41/2020/ POCSO case No.145/20, Misc. No.115/21, 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 co-operate during the trial.

(Sudhir Singh, J)

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