

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.701 of 2021

Arising Out of PS. Case No.-58 Year-2021 Thana- BARAUNI District- Begusarai

AAKASH KUMAR @ AKASH KUMAR Through his legal guardian Niles
Kumar Mishra (Father) Son of Late Suresh Mishra Resident of Village-
Jagatpura, P.S.- Matihani, district- Begusarai.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ravindra Kumar, Advocate
For the Respondent/s : Mr.Binod Kumar, 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 07.09.2021 passed in Cr. Appeal No. 33 of 2021 by which the learned Additional Sessions Judge -I-cum- P.O. Children Court, Begusarai has affirmed the order dated 12.04.2021 passed in J.J.B. No. 52 of 2021 by which learned Juvenile Justice Board, Begusarai has rejected the prayer for bail of the petitioner in connection with Barauni (F.C.I.O.P.) P.S. Case No. 58 of 2021 registered for the offences under sections 399, 402, 412 of the Indian Penal Code and 25(1-b)a, 26 and 35 of the Arms Act.

The prosecution story, in brief is that the while the



informant along with police party was on patrolling duty got secret informant that accused persons were present for planning a crime and when reached the place of occurrence, two country made katta and two cartridges and one looted motorcycle were recovered.

It has been submitted on behalf of the petitioner that the petitioner is in custody since 04.02.2021. 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. No recovery was made from the possession of the petitioner. The alleged recovery of arms has been made from the possession of co-accused. 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 attitude of the child towards friends is general. The officer has recommended that the petitioner requires special attention and proper care so that he can be transformed and get proper education. 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 07.09.2021 passed in Cr. Appeal No. 33 of 2021 by learned Additional Sessions Judge -I-cum- P.O. Children Court, Begusarai and the order dated 12.04.2021 passed in J.J.B. No. 52 of 2021 by learned Juvenile Justice Board, Begusarai in connection with Barauni (F.C.I.O.P.) P.S. Case No. 58 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 father on execution of surety bond of Rs. 10,000/- (ten



thousand) to the satisfaction of learned Juvenile Justice Board, Begusarai in connection with Barauni (F.C.I.O.P.) P.S. Case No. 58 of 2021 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)

Pankaj/-

U		T	
---	--	---	--

