

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.703 of 2021

Arising Out of PS. Case No.-751 Year-2020 Thana- KHAJANCHI HAT District- Purnia

1. XXX, Son of Santosh Kumar Jha, Under the Guardianship of their father Namely Santosh Kumar Jha , Resident of Village - Maithil Tola, Near Law College, P.S.- K. Hat T.O.P. (Madhubani), Distt.- Purnea.
2. YYY, Son of Santosh Kumar Jha, Under the Guardianship of theri father Namely Santosh Kumar Jha , Resident of Village - Maithil Tola, Near Law College, P.s.- K. Hat T.O.P. (Madhubani), Distt.- Purnea.

... .. Petitioners

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner/s	:	Mr.Mahendra Pathak, Advocate Mr. Ashwani Kumar Tiwary, Advocate
For the Respondent/s	:	Mr.Md. Fahimuddin, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 12-07-2022 Heard learned counsel for the petitioners and Mr. Md. Fahimuddin, learned APP for the State.

This revision application is directed against the order dated 28.10.2021 passed by learned 1st Additional Sessions Judge-cum-Special Judge, Children Court, Purnea in Special Kishor Case No. 03 of 2021/CIS No. 03 of 2021 whereby and whereunder the order dated 06.10.2021 rejecting bail of the petitioners by learned Juvenile Justice Board, Purnea in G.R. No. 4338 of 2020 arising out of K.Hat P.S. Case No. 751 of 2020 registered for the offences punishable under Sections 147, 148, 149, 302, 307, 323, 324, 341 of the Indian Penal Code and Section 27 of the Arms Act has been affirmed.



Learned counsel for the petitioners submits that the petitioners have been declared juvenile by the Juvenile Justice Board, Purnea aged about 16 years, 09 months, 30 days and 17 years, 05 months 10 days respectively on the alleged date of occurrence and they have remained in the observation home since 19.07.2021, their father is ready to stand as a surety and furnish an undertaking that if released on bail the petitioners shall not be allowed to indulge in any unlawful act and all care will be taken that they do not fall in the company of anti-social elements and in case the petitioners indulge in any unlawful act, he will inform it to the jurisdictional police station.

It is further submitted that in the case of **Lalu Kumar and Ors. versus The State of Bihar** reported in **2019 (4) PLJR 833** the Hon'ble Division Bench of this Court in paragraph '84' of the judgment has carved out three exceptions in which prayer for bail of a juvenile may be denied which are as under:-

“(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 physiology danger; and

(ii) The release would defeat the ends of justice.”

Learned APP for the State has opposed the prayer for bail of the petitioners.



Having regard to the submissions and the materials available on the record showing that these two petitioners have been declared juvenile aged about 16 years, 09 months, 30 days and 17 years, 05 months 10 days respectively, in the social investigation report, it has come that both of them are regular students of the college in 1st year of graduation and there is no complaint against them otherwise by the neighbours, they have remained in the observation home since 19.07.2021 and at this stage the records have been transferred to the Children's court to consider the need to try the petitioners as an adult, keeping in view the spirit of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and keeping in view the exceptions carved out by the Hon'ble Division Bench of this Court in the case of **Lalu Kumar (supra)** as also their father is ready to stand as a surety and furnish an undertaking that if released on bail he would ensure that the petitioners do not get involved in commission of any crime and he would further ensure that the petitioners are found involved in any offence thereafter, he will immediately report to the jurisdictional police station, this Court sets aside the impugned order and directs release of the petitioners above named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of learned 1st Additional Sessions Judge-



cum-Special Judge, Children Court, Purnea in connection with Special Kishor Case No. 03 of 2021/CIS No. 03 of 2021 (G.R. No. 4338 of 2020) arising out of K.Hat P.S. Case No. 751 of 2020.

Subject to condition that one of the sureties shall be the father of the petitioners who will also furnish an undertaking that if released on bail the petitioners shall not be allowed to indulge in any unlawful act and all care will be taken that they do not fall in the company of anti-social elements and in case the petitioners indulge in any unlawful act, he will inform it to the jurisdictional police station.

And it is further ordered that the Probation Officer attached to the Juvenile Justice Board, Purnea shall keep a vigil over the petitioners and will be submitting his periodical reports to the Juvenile Justice Board as regards the conduct of the petitioner.

This application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

vats/-

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

