

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.713 of 2021

Arising Out of PS. Case No.-26 Year-2021 Thana- JAGDISHPUR District- Bhojpur

(XXX) S/o Sri Kameshwar Yadav @ Kameshwar Singh under the guardianship of his elder brother namely Jitendra Singh, Resident of Vill-Pilapur, P.S.- Jagdishpur, Dist- Bhojpur. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Rajani Ranjan Pd. Singh, Advocate

For the State : Mr. Akhileshwar Dayal, APP

For the Informant : Ms. Mira Kumari, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

8 05-09-2022 Learned counsel for the petitioner is permitted to make corrections in the prefix to the father's name. It is stated that the word 'Late' is required to be deleted.

Permission is granted.

Heard learned counsel for the petitioner, Mr. Akhileshwar Dayal, learned APP for the State and Ms. Mira Kumari, learned counsel for the informant.

The petitioner in the present case is seeking setting aside of the order dated 28.09.2021 passed by learned Additional Sessions Judge, 1st-cum-Child Court, Bhojpur at Ara in Cr. Appeal No. 40 of 2021 whereby and whereunder the order dated 09.07.2021 rejecting the prayer for bail of the petitioner passed by learned Juvenile Justice Board, Bhojpur at Ara in Jagdishpur P.S. Case No. 26 of 2021 registered for the offences punishable under Sections 302/34 of the Indian Penal Code and Section 27 of the



Arms Act has been affirmed.

Learned counsel for the petitioner submits that the petitioner is in the observation home since 08.03.2021. He has been declared juvenile aged about 15 years 1 month on the alleged date of occurrence and the order declaring him juvenile (Annexure '2') is not under challenge.

It is further submitted that as per the prosecution report, this petitioner is said to have fired upon the deceased but from the Social Investigation Report of the petitioner, it will appear that the allegations made against the petitioner may be a result of old enmity and he seems to have been falsely implicated with his father in the present case.

It is further submitted that petitioner is a student of intermediate class. He has passed out his class 10th examination from the Central Board of Secondary Education and his behavioural pattern is normal. He does not have any bad habit and his neighbors have also not given any adverse opinion against the petitioner. It is submitted that in order to allow the petitioner to remain connected with the mainstream of the society by pursuing his studies, he deserves privilege of bail.

His elder brother is ready to stand as a surety and to furnish an undertaking that if released on bail, he will ensure that the petitioner does not fall in bad company and in case the



petitioner indulges in any unlawful act, he will inform it to the jurisdictional police station.

This application has been opposed by learned counsel for the informant as well as learned APP for the State. It is, however, not denied that the petitioner has been adjudged juvenile aged below 16 years and in this case, he has remained in the observation home for more than one and half year.

Having regard to the submissions noted above and the materials available on the record particularly that the petitioner is aged below 16 years and his Social Investigation Report indicates that his behavioural pattern is normal, he does not have any bad habit and it may be a case of false implication of the petitioner with his father because of old enmity and further considering the spirit of Section 12 of Juvenile Justice (Care and Protection of Children) Act, 2015 and in view of the exceptions carved out by the Hon'ble Division Bench of this Court in the case of **Lalu Kumar and Ors. versus The State of Bihar** reported in **2019 (4) PLJR 833** that classification of the offences under the bailable and non-bailable sections would not be relevant for purpose of grant of bail to a juvenile and the prayer for bail of a juvenile may be rejected only under one of the three conditions 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 physiological danger; and
- (iii) The release would defeat the ends of justice.”



this Court sets aside the impugned order and directs release of the petitioner above named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Bhojpur at Ara in connection with Jagdishpur P.S. Case No. 26 of 2021.

One of the sureties should be the elder brother of the petitioner and he will also furnish an undertaking that if released on bail, the petitioner shall not be allowed to come in contact with any bad element and in case the petitioner indulges in any unlawful act, he will inform it to the jurisdictional police station.

The Probation Officer shall keep on visiting the place of the petitioner and shall submit periodical report to the Juvenile Justice Board, Bhojpur at Ara as regards the conduct of the petitioner. If anything adverse is found against the petitioner, the same will also be reported to the Board for necessary action.

The application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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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'.

