

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.749 of 2021

Arising Out of PS. Case No.-146 Year-2020 Thana- JANTA BAZAR District- Saran

PUSHKAR PANDEY S/O Late Chandeshwar Pandey Under the guardianship of his father namely Sashi Shekhar Pandey, R/o Basti, Chal Hafiz, P.S. Janta Bazar, District - Saran.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner/s	:	Mr.Sarva Deo Singh, Advocate
For the Respondent/s	:	Mr.Sadanand Paswan, Special P.P.
For the Informant	:	Mr. Arif Daula Siddique, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 22-06-2022 Heard learned counsel for the petitioner, learned counsel for the informant and learned Special P.P. for the State.

Petitioner, in the present case, is seeking setting aside the judgment dated 28.09.2021 passed by learned 1st Additional Sessions Judge, Saran at Chapra in connection with Cr. (Juvenile) Appeal No. 28/2021 whereby and whereunder the criminal appeal filed by the petitioner has been dismissed affirming the order dated 31.08.2021 passed by learned Juvenile Justice Board, Saran in connection with J.J.B. Case No. 1118/2021 arising out of Janta Bazar P.S. Case No. 146 of 2020 registered for the offence under Section 147/148/149/447/341/302/120(B)/506 of the Indian Penal Code and 27 of the Arms Act and 3(1)(r)(s), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.



Learned counsel for the petitioner submits that this petitioner has been adjudged juvenile by the learned Juvenile Justice Board, Saran at Chapra. It has however been submitted that the exact age of the petitioner as recorded by the J.J.B. Saran at Chapra is not available on the record.

It is submitted that as per the prosecution story altogether 14 persons had come to the house of the informant and they had taken away the deceased Sharwan Kumar to the place of occurrence where allegedly this petitioner and two others namely, Mrityunjay Pandey and Vinit Pandey were present. According to the prosecution story, when the deceased brother of the informant reached to the place of occurrence the F.I.R. named accused persons who were lashed with weapons exhorted the petitioner to kill the brother of the informant, whereupon this petitioner is said to have fired upon the chest of the brother of the informant which resulted in his killing.

Learned counsel for the petitioner submits that from the F.I.R. it would appear that this informant is not an eye witness to the alleged occurrence. He reached at the place of occurrence only after his brother had already been shot dead.

It is further submitted that the petitioner being a juvenile he deserves the privilege of bail keeping in view that



the seriousness of the offence cannot be a ground in case of a juvenile to refuse him the privilege of bail.

On the other hand, learned counsel for the informant as well as learned Special P.P. for the State have opposed the prayer for bail of the petitioner. It is submitted that no doubt the petitioner has been declared juvenile but in the social investigation report his age has been recorded approximately about 18 years meaning thereby that the case of the petitioner would come within the purview of Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015, and after his preliminary assessment it may be found as to whether he is fit to be tried as an adult.

It is submitted that in any case the petitioner is involved in commission of a heinous crime and he being a juvenile of more than 16 years of age and further that he has got three criminal antecedents, his case would be covered under the exceptions provided in the judgment of 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**.

It is submitted that in paragraph 13 of the case diary, there is an eye witness to the alleged occurrence and some independent witnesses have also supported the allegation



against the petitioner. Their statements are recorded in paragraph 37, 38 and 39 of the case diary.

Having regard to the submissions noted hereinabove and on perusal of the materials available on the record, this Court has noticed that not only the petitioner is said to be an assailant of the deceased, he has also got three criminal antecedents which are the cases registered in the year 2018 and 2019 for the offences alleged under the Arms Act, Section 394 and 399, 402 and 414 of the I.P.C. respectively. To this court, thus, it *prima-facie* appears that the petitioner has indulged in commission of the alleged offence during his juvenility period and he has not reformed himself over the period, thus his release at this stage is neither in his interest nor in the interest of the society. Taking note of the materials available on the record and considering the interest of the juvenile this Court finds it not a fit case to interfere with the impugned judgment.

The Revision Application is, thus, dismissed.

(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'.

