

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.763 of 2021**

Arising Out of PS. Case No.-62 Year-2021 Thana- KATEYA District- Gopalganj

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XXX Son of Brijkishor Singh Under the Guardianship of his natural guardian
- Uma Devi (Mother) Wife of Brijkishor Singh, aged about 40 years Resident
of Village - Kalichhapar, P.S. - Kateya, District - Gopalganj.

... .. Petitioner

Versus

1. THE STATE OF BIHAR
2. DINESH GOND Son of Hari Kishun Gond Resident of Village -
Kalichhapar, P.S. - Kateya, District - Gopalganj.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr.Indrajeet Bhushan, Advocate
For the State	:	Mr.Akhileshwar Dayal, APP
For the Informant	:	Mr. Sushil Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 21-07-2022 Learned counsel for the petitioner has undertaken to
remove the remaining defects within one week from today.

Heard learned counsel for the petitioner, learned
counsel for the informant and Mr. Akhileshwar Dayal, learned
A.P.P. for the State.

Petitioner, in the present case, is seeking setting aside
of the judgment dated 28th October, 2021 passed by learned 1st
Additional Sessions Judge, Gopalganj in Criminal Appeal No.
30 of 2021 arising out of order dated 10.08.2021 passed by the
learned Principal Magistrate, J.J. Board, Gopalganj in J.E. Case
No. 39/2021 arising out of Kateya P.S. Case No. 62/2021
registered for the offence under Section 377 I.P.C., under section



4 of the POCSO Act and under Section 3(2)(v) of SC/ST Act, whereby and whereunder the learned 1st Additional Sessions Judge, Gopalganj has refused to grant bail to the petitioner.

As per the prosecution story, the informant has alleged that on 14.02.2021 around 1:00 P.M. his co-villager Sachin Singh allured his son and took him to the classroom of the school and did unnatural act with him. Hearing the cry of the child the wife of the informant reached there, thereafter the Sachin Singh (the petitioner) fled away.

Learned counsel for the petitioner submits that petitioner has been falsely implicated in this case. Petitioner and the informant are the next door neighbours. Learned counsel submits that petitioner has been adjudged juvenile aged about 14 years one month only and he is in the observation home for more than one year five months.

Learned counsel submits that the father of the petitioner is ready to stand as a surety and submit an undertaking to the effect that if released on bail, he would ensure that the petitioner does not fall in bad company and he will ensure that the petitioner continues with his studies so that he may be connected with the mainstream of the society and in case, the petitioner is found involved in any offence hereafter,



he will immediately report to the jurisdictional police station.

Mr. Akhileshwar Dayal, learned A.P.P. for the State has opposed the prayer for bail of the petitioner.

Mr. Sushil Kumar, learned counsel for the informant has though opposed the prayer for bail of the petitioner but it is not denied that the petitioner is a juvenile aged about 14 years old.

Having regard to the submissions made on behalf of the petitioner, learned counsel for the informant and learned A.P.P. for the State, finding that the petitioner has been adjudged juvenile aged about 14 years one month only, he is in the observation home for more than one year five months, he has otherwise no criminal antecedent, inquiry is still going on and his father is ready to stand as a surety and furnish an undertaking that if released on bail he will take care of the study of the petitioner and shall ensure that he 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 as also following the spirit of section 12 of the 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. Vs. 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 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 Principal Magistrate, Juvenile Justice Board, Gopalganj, in connection with J.E. Case No. 39/2021, arising out of Kateya P.S. Case No. 62 of 2021.

One of the sureties should be the father 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 of 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, Gopalganj 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.

Certified copy of the order will be made available only after removal of the defects, as pointed out by office.

(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'.

