

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.45 of 2022

Arising Out of PS. Case No.-229 Year-2020 Thana- MAHNAR District- Vaishali

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SUNNY KUMAR @ MITTHU @ SUNNY KUMAR MISHRA S/o Amaresh Mishra Resident of Ward No.8 Cinema Road, Mahnar, P.S.- Mahnar, District- Vaishali. Represented through his Legal Guardian namely Amaresh Mishra.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Pranav Kumar Jha, Advocate
For the Respondent/s : Mr. APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 11-01-2023 Heard learned counsel appearing on behalf of the petitioner/revisionist.

Name of the petitioner/revisionist is shown as “XXX” in this order.

The present revision application is being preferred against judgement dated 28.10.2021 passed by learned 1st Additional Sessions Judge-cum-Special Judge, Vaishali at Hajipur in Criminal (Juvenile) Appeal No. 17 of 2021 by which the learned Court refused to enlarge the petitioner on bail in connection with Mahnar P.S. Case No. 229 of 2020 registered for offence under Sections 302 and 120(B) of the Indian Penal Code.

The petitioner/revisionist, aged about 17 years 11



months and 20 days on the alleged date of occurrence i.e. 30.07.2020, is not named in F.I.R., and is in custody/observation home since 19.03.2021.

The allegation against this petitioner is to commit murder of one Rajindra Mahto (where case was instituted by ASI, local police station) along with other co-accused persons by using sharp cut weapons, due to certain disputes and differences, arises out of previous enmities.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that petitioner is not named in F.I.R. and his name surfaced on the basis of suspicion, as surfaced during course of investigation, in furtherance of which a self confession of petitioner/revisionist was obtained, where nothing incriminating material surfaced to incriminate/connect him with the present set of occurrence/murder. It is further submitted that the petitioner/revisionist is a man of clean antecedent, where, father of the petitioner is ready to furnish all undertaking to bring petitioner/revisionist into mainstream of the society by extending his best care.

Learned APP for the State has opposed the prayer for bail of the petitioner/revisionist. Learned APP has, however, not pointed out any adverse material from the social investigation



report.

Having regard to the submission and materials showing that the petitioner has been adjudged juvenile aged about 17 years 11 months and 20 days approximately on the alleged date of occurrence, no active participation of the petitioner has been alleged, he has no criminal antecedent and the social investigation report of the petitioner is also not showing any adverse material against him so as to dissuade this court for granting release of the petitioner on bail, as also that petitioner has remained in the Observation Home for about two years 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 the 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.”*

Accordingly, this court sets-aside the impugned order and directs release of the petitioner/revisionist 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 1st Additional Sessions Judge-cum-Special Judge, Vaishali at Hajipur/concerned Court in connection with Mahnar P.S. Case No. 229 of 2020.

One of the sureties should be the father of the petitioner/revisionist and he will also furnish an undertaking in terms stated here-in-above.

The Probation Officer shall keep on visiting the place of the petitioner and shall submit periodical report to the Juvenile Justice Board (J.J.B.), Vaishali at Hajipur, regarding conduct of the petitioner/revisionist. If found anything adverse against this petitioner/revisionist, the same will also be reported



to the Board for necessary action.

(Chandra Shekhar Jha, J)

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