

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.70 of 2022

Arising Out of PS. Case No.-336 Year-2021 Thana- MOTIHARI TOWN District- East
Champaran

=====

Rahul Kumar Singh @ Rahul Kumar Son Of Ishwar Singh R/O Village-
Kapripur, P.S.- Basatpur, District- Siwan, At Present R/O Mohalla- Agarwa
Lalatola, P.S.- Motihari Town, District- East Champaran

... .. Petitioner/s

Versus

1. The State of Bihar
2. Vijay Prasad Ray Son Of Not Given R/O Mohalla- Town, P.S.- Motihari,
District- East Champaran

... .. Respondent/s

=====

Appearance :

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

=====

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

6 31-01-2023 Heard learned counsel appearing on behalf of the

petitioner and learned APP appearing on behalf of the State.

The present revision application is being preferred
against judgment dated 03.12.2021 passed by learned 1st
Additional Sessions Judge, East Champaran, Motihari in
Criminal Appeal No. 41 of 2021 by which the learned Court
refused to enlarge the petitioner on bail in connection with J.J.B.
Case No.1153 of 2021 arising out of Motihari Town P.S. Case
No. 336 of 2021 registered for offence under Sections 25(1-b)a,
and 26 of the Arms Act.

The petitioner/revisionist, as adjudged aged about 15
years and 09 months on the alleged date of occurrence i.e.



15.05.2021, is named in F.I.R., and is in custody/observation home since 16.05.2021.

The allegation against this petitioner is to have in possession of one countrymade pistol and one live cartridge of 315 bore.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that alleged recovery of fire arms was not made from the conscious physical possession of this petitioner, where seizure list appears doubtful being not supported by independent witnesses rather by Bihar Homeguard Personnels. It is also submitted that in similar way petitioner was implicated in other four cases of similar nature without having any connecting material/evidence. It is also pointed out that the Social Investigation Report (S.I.R.) of the petitioner is not showing any adverse material against this revisionist/petitioner.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that father of the juvenile petitioner is ready to stand as a surety and furnish an undertaking that he will take care of the petitioner/revisionist and shall ensure his studies as well as that he would not fall in bad company and would take all possible care to connect him



with the mainstream of the society.

Learned APP for the State, while opposing the prayer for bail fairly conceded that seizure list witnesses are Bihar Homeguard Personnels.

Having regard to the submission and materials showing that the petitioner has been adjudged juvenile aged about 15 years and 09 months approximately on the alleged date of occurrence, no active participation of the petitioner has been alleged, the social investigation report of the petitioner is 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 more than one year and his father/mother 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, East Champaran, Motihari/concerned Court in connection with Motihari Town P.S. Case No. 336 of 2021.

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.), Motihari, regarding conduct of the petitioner. If found anything adverse against this petitioner/revisionist, the same will also be reported to the Board for necessary action.

(Chandra Shekhar Jha, J)

S.Tripathi/-

U		T	
---	--	---	--

