

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.92 of 2023

Arising Out of PS. Case No.-179 Year-2022 Thana- MAKER District- Saran

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Akash Kumar S/O Durgavati Devi Under the guardianship of his mother
namely Durgavati Devi, W/o Ramanand Manjhi R/v- Kishunpur, P.S.- Bheldi,
District- Saran at Chapra

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Jeetendra Narayan

For the Respondent/s : Ms.Suman Kumari Singh

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 27-02-2023 Heard counsel for the petitioner and the State.

The present criminal revision application has been preferred against the judgment and order dated 10.01.2023 passed by learned Ist Additional Sessions Judge-cum-Children Court, Saran at Chapra in Criminal Appeal No. 32 of 2022 arising out of Maker PS Case No. 179 of 2022 registered for the offence under Sections 328, 308, 304, 120(B) read with section 34 of the Indian Penal Code and section 37(1)(2) of the Bihar Prohibition & Excise Act, 2018 whereby and whereunder the learned Court upheld the order dated 21.10.2022 passed in Juvenile Inquiry No./JJB No. 2345 of 2022 of learned Principal Judge Juvenile Justice Board, Saran at Chapra by which prayer for bail of the petitioner has been rejected.



As per the prosecution case, eight persons died due to consumption of spurious liquor in the house of Ramanand Manjhi, Sandip Kumar and Akash Kumar (petitioner).

It is submitted on behalf of petitioner that petitioner has been declared juvenile by the Juvenile Justice Board, as on the alleged date of occurrence, he was 17 years. It is further submitted that Juvenile Justice Board as well as Children Court have rejected the bail application of the petitioner only considering the merit and nature of allegation which is not in consonance with the mandate of law. Case of juvenile is to be considered on the criteria laid down under Section 12 of the Juvenile Justice Board Act. It is further submitted that social investigation report is based on conjectures and surmises and without any material. Petitioner has got clean antecedent and he is in custody since 03.09.2022.

Counsel for the State vehemently opposed the prayer for bail.

From perusal of provisions of sections 12 of the Juvenile Justice (Care and Protection of Children) Act, it is evident that the Juvenile Justice Board as well as the Appellate Court are required to look into aspects which may be relevant with reference to three grounds, namely, likelihood of



association with criminals, likelihood of moral, physical or psychological danger and likelihood to defeat ends of justice, rather than searching into merits of the case or nature and gravity of allegation. In this case, without there being such finding or report of social investigation, only nature and gravity of offence has been taken into consideration while considering bail application of this appellant which is contrary to statutory mandate of Section 12 of Juvenile Justice Act, Interest of children is paramount consideration in such cases. In absence of adverse report of social investigation on those three accounts, the bail should not be denied to a juvenile in conflict with law.

Considering the aforesaid facts, this revision application is allowed. The order dated 10.01.2023 passed by learned Ist Additional Sessions Judge-cum-Children Court, Saran at Chapra in Criminal (Juvenile) Appeal No. 32 of 2022 arising out of Maker PS Case No. 179 of 2022, is set aside.

Let the petitioner above-named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Ist Additional Sessions Judge-cum-Children Court, Saran at Chapra in Criminal Appeal No. 32 of 2022 arising out of Maker PS Case No. 179 of 2022 with further condition that the mother



of the petitioner shall file an affidavit for the good behaviour
and child’s well being for a period of one year.

(Prabhat Kumar Singh, J)

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