

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.123 of 2023

Arising Out of PS. Case No.-720 Year-2022 Thana- SITAMARHI District- Sitamarhi

GOLU KUMAR @ ROHITAKH @ ROHITASHWA S/o Raj Kumar R/o village- Mirrchaipatti, ward no. 18 @ ward no. - 18, Kapraul road Chakmahila, P.S.- Sitamarhi, Distt- Sitamarhi under the Guardianship of Raj Kumar, aged about 59 years, Gender- Male, S/o - Sitaram Prasad, R/o Village- Ward no. 18, Kapraul Road, Chakmahila @ Mirrchaipatti, ward no. - 18, P.S.- Sitamarhi, Distt- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Santosh Kumar

For the Respondent/s : Mr.Chandra Bhushan Prasad

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

3 02-03-2023 Heard counsel for the petitioner and the State.

The present criminal revision application has been preferred against order dated 11.1.2023 passed in connection with Cr.Appeal No.87/2022 arising out of Sitamarhi Police Station Case No. 720/2022 registered for the offence under Sections 302/34 of the Indian Penal Code by which order dated 16.11.2022 rejecting bail of the petitioner by the Juvenile Justice Board, Sitamarhi has been confirmed.

It is submitted on behalf of petitioner that petitioner has been declared juvenile by the Juvenile Justice Board vide order dated 19.10.2022. It is further submitted that Juvenile Justice Board and appellate court has 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 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 observation home since 6.10.2022.

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. Impugned order dated 11.1.2023 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 Juvenile Justice Board, Sitamarhi in Sitamarhi Police Station Case No. 720 of 2022, with further condition that the father 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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