

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.140 of 2022

Arising Out of PS. Case No.-249 Year-2021 Thana- BIHTA District- Patna

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Gulshan Kumar @ Swaraj Kumar Son of Vinod Kumar Resident of village-
Makhdumpur P.S. and P.O.- Bihta (Neora) Dist. Patna through his mother
namely Sunita Devi, Wife of Vinod Kumar, Resident of Village -
Makhdumpur, P.S. and P.O.- Bihta (Neora), District- Patna. Under legal
authority as guardian.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Saket Anand, Advocate
For the Respondent/s : Mr. Ramchandra Singh, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 13-01-2023 Heard learned counsel appearing on behalf of the

petitioner/revisionist and learned APP appearing on behalf of the

State through virtual Court proceedings.

The present revision application is being preferred
against order dated 04.02.2022 passed by the Court of learned
Additional Sessions Judge-I-cum-Child Court, Patna, in
Criminal Appeal No. 148 of 2021 arising out of J.J.B. Case No.
174 of 2021 against the petitioner/revisionist in connection with
Bihta P.S. Case No. 249 of 2021 registered under Sections 363
and 365 of the Indian Penal Code, whereby and whereunder the
learned Court has rejected the prayer for bail of the
petitioner/revisionist.



The petitioner/revisionist, aged about 17 years 03 days on the alleged date of occurrence i.e. 10.06.2021, is named in F.I.R., and is in custody/observation home since 27.03.2021.

The allegation against petitioner/revisionist is to commit murder of two minor sons of the informant alongwith other family members and co-accused persons, due to property disputes arises out of ancestral property.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that even from the bare perusal of F.I.R., no allegation appears against this petitioner/revisionist, as it is purely appears to be based upon suspicion. It is further submitted that paragraph no. 91 of the case diary, where the entire allegation shifted upon one Harinder Dada, where enmity was claimed for one approach path way. It is also submitted that the mother of this revisionist/petitioner and said Harinder Dada have already been granted bail by one of the learned co-ordinate Bench of this Court vide order dated 05.07.2022 passed in Cr. Misc. No. 46336 of 2021 and vide order dated 20.12.2022 passed in Cr. Misc. No. 52593 of 2022 respectively. It is further submitted that petitioner/revisionist is a man of clean antecedent and moreover, no adverse report has been found against this petitioner/revisionist, as per his Social Investigation Report



(S.I.R.), which also suggest non-involvement of petitioner/revisionist in present occurrence, on its face.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that mother of the juvenile petitioner is ready to stand as a surety and furnish an undertaking that she 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 duly assisted by learned counsel Mr. Amrendra Kumar appearing on behalf of the informant, while opposing the prayer of bail submitted that petitioner/revisionist actively participated in the alleged occurrence. However, learned APP has not pointed out any adverse material from the Social Investigation Report (S.I.R.).

Having regard to the submissions advanced as above, and materials showing that the petitioner has been adjudged juvenile aged about 17 years 03 days approximately on the alleged date of occurrence, having no active participation, he has no criminal antecedent and 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 about two years and his mother is ready to stand as a surety and furnish an undertaking that if released on bail she 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, she 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 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 Juvenile Justice Board (J.J.B.), Patna City, Patna in connection with Bihta P.S. Case No. 249 of 2021.

One of the sureties should be the mother of the petitioner and she 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.), Patna City, Patna regarding conduct of the petitioner. If found anything adverse against this petitioner, the same will also be reported to the Board for necessary action.

(Chandra Shekhar Jha, J)

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