

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.138 of 2023

Arising Out of PS. Case No.-367 Year-2022 Thana- SITAMARHI District- Sitamarhi

‘X’ (Child in Conflict of Law) through his legal guardian mother Niro Devi,
Wife of Naresh Mukhiya, R/o Ward No.6, Rajopatti, Chakmahila, P.S.-
Sitamaarhi (Mehsaal OP), District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Madan Kumar, Adv.

For the Respondent/s : Mr. Ajay Kumar No.2, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 22-03-2023

Learned counsel for the petitioner is directed to add
informant as Opposite Party No.2 in this case in course of the
day.

Heard learned counsel for the petitioner and learned
counsel for the State.

The present Cr. Revision Application has been filed
for setting aside the order dated 11.01.2023 passed by Presiding
Officer Children Court cum Additional Sessoids Judge-1,
Sitamarhi in Cr. Appeal No. 68 of 2022, by which, the prayer for
bail of petitioner has been rejected and the order dated
29.07.2022 passed by Juvenile Justice Board, Sitamarhi in J.J.B.
Case No. 1571 of 2022 arising out of Sitamarhi (Mehsaal) P.S.
Case No. 367 of 2022 lodged under Section 302, 304(B) & 34 of
the Indian Penal Code.

Learned counsel for the petitioner submits that from the contents of F.I.R. it transpires that entire family members were made accused including the petitioner who is minor. He further submits that there are general and omnibus allegations made in the F.I.R. He also submits that the principles of considering the juvenile matter has been laid down under Section 3 of the Juvenile Justice Act. The S.B.R. and S.I.R. both the reports have been considered by the J.J. Board but even then for the purpose of rejection of the order the merit of the case has been taken into consideration. He further submits that mother of petitioner is ready to file undertaking that petitioner should not involve in any type of crime

Learned counsel for the State opposes the prayer and submits that the order passed by the J.J. Board as well as the order passed by the Appellate Court are in accordance with law.

This Court is of the view that Juvenile Justice Board and the Appellate Court at the time of considering the bail has considered the merit and demerits of the case, which is in violation of Section 3 of the Juvenile Justice Act particularly when there is no direct allegation and there is only general and omnibus allegation against all the persons who were none-the-less but accused persons. Since all the other persons are in custody, so care of petitioner is necessary and, as such, mother of

petitioner is ready to file undertaking, so that he may not involve in any type of crime.

In this view of the matter, petitioner is directed to be released from observation home on the undertaking given by his mother that she shall take care and petitioner shall not involve in such type of activities in future.

Condition is hereby also imposed that the petitioner alongwith his mother shall visit periodically in the first week of every month before the Probationer Officer.

With this direction, the present Cr. Revision Application stands allowed and the order dated 11.01.2023 passed by Presiding Officer Children Court cum Additional Sessoins Judge-1, Sitamarhi in Cr. Appeal No. 68 of 2022 and the order dated 29.07.2022 passed by Juvenile Justice Board, Sitamarhi in J.J.B. Case No. 1571 of 2022 arising out of Sitamarhi (Mehsaal) P.S. Case No. 367 of 2022 are hereby set aside.

(Dr. Anshuman, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	