

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.195 of 2022

Arising Out of PS. Case No.-34 Year-2021 Thana- BAJPATTI District- Sitamarhi

X6

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Deepak Kumar Son of Umesh Thakur Resident of Village - Bajpatti, P.S.-
Bajpatti, District - Sitamarhi

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Raja Ram Rai, Advocate

For the Respondent/s : Mr. Rajiv Nayan, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 02-02-2023 Heard learned counsel appearing on behalf of the

petitioner/revisionist and learned APP appearing on behalf of the

State.

Though the petitioner has given full description in the application, it would be inappropriate to disclose his identity in view of the statutory provisions prescribed under Section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'the Act of 2015'). He is being referred to in the cause title as X6.

Registry while uploading the order on the website shall also ensure that the cause title is reflected in similar manner.

The present revision application is being preferred against order dated 06.07.2021 passed by the learned Juvenile Justice Board, Sitamarhi in J.J. Board Case No. 1205/2021 and



order dated 31.08.2021 passed by the learned 1st Additional Session Judge-cum-Spl. Judge, Children's Court, Sitamarhi, in Cr. Appeal No. 21/2021 arising out Bajpatti P.S. Case No. 34/2021, whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, aged about 17 years 11 months 06 days on the alleged date of occurrence, is not named in F.I.R., and is in custody/observation home since 22.03.2021.

The allegation against revisionist/petitioner is to commit robbery alongwith other co-accused persons, while committing so taken away cash of Rs. 30,000/-, three signed cheques and one mobile phone belongs to informant.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that the name of petitioner appears in this case during course of investigation on the basis of confessional statement of co-accused, namely, Bipin Kumar, in furtherance of which nothing incriminating surfaced to connect this revisionist/petitioner with present occurrence of the robbery. It is also submitted that similarly situated co-accused, namely, Raja Kumar has already been granted bail by one of the learned Co-ordinate Bench of this Hon'ble Court vide order dated 02.03.2022 passed in Cr. Misc. No. 57196 of 2021. It is further



submitted that revisionist/petitioner involved in four more cases of similar nature, where his name surfaced on the basis of confessional statement as of the present case. While concluding the argument, it is submitted that nothing adverse can be gathered from the Social Investigation Report (SIR) of the revisionist/petitioner, which may suggest that petitioner cannot join the mainstream of society.

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 proper 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 and groom him as a good and law abiding citizen.

Learned APP, while opposing the prayer of bail fairly conceded that revisionist/petitioner is not named in the FIR and 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 11 months 06 days approximately



on the alleged date of occurrence, 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 father 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 psychological danger; and

(iii) The release would defeat the ends of justice.”



Accordingly, the impugned order dated 06.07.2021 passed by the learned Juvenile Justice Board, Sitamarhi in J.J. Board Case No. 1205/2021 is set aside. Consequently, order dated 31.08.2021 passed by the learned 1st Additional Session Judge-cum-Spl. Judge, Children's Court, Sitamarhi, in Cr. Appeal No. 21/2021 arising out Bajpatti P.S. Case No. 34/2021, is also set aside.

The petitioner is directed to be released 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, Sitamarhi.

One of the sureties should be the father 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.), Sitamarhi, 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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