

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.165 of 2023**

Arising Out of PS. Case No.-346 Year-2020 Thana- SHERGHATI District- Gaya

ROHIT @ GOLU S/O ARUN KUMAR SINGH R/o mohalla- Rayjee Mahila College, Sherghati, P.S.- Sherghati, District- Gaya through his cousin Avinash Kumar Singh aged about 23 years (Male), S/o Anil Singh, Residence of Ghaghar, Gaya, Sherghati, P.S.- Sherghati, District- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar
2. RAHUL KUMAR S/O SHIVRATAN YADAV R/v- Rehmat Bigha, P.S.- Ongari, District- Nalanda

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr.Rahul Kumar, Adv.  
For the Respondent/s : Mr.Uday Pratap Singh, APP

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**ORAL ORDER**

5      17-08-2023                      Heard Mr. Rahul Kumar, learned counsel for revisionist/petitioner and Mr. Uday Pratap Singh, learned APP for the State.

2. The present Cr. Revision application has been filed against the judgment and order dated 24.01.2023 passed in Cr. Appeal No. 06/2022 by the learned Special Judge, Children Court, Gaya along with order dated 10.12.2021 passed by Juvenile Justice Board, Gaya in connection with Sherghati PS Case No. 346/2020 for the offence punishable under Sections 392 IPC whereunder both the learned courts below have refused to release the revisionist/petitioner on bail.

3. As per FIR lodged on 18.07.2020 by the informant,



he being an official of Annapurna Finance Pvt Ltd., after collecting installment money, was returning to his Sherghati office and as soon as he reached near Aman-Chain Nahar Road, three motorcycle borne unidentified miscreants came to him and on the point pistol deprived him of his bag containing Rs.17,718/, Samsung Tab, a mobile and some documents of the company.

4. Learned counsel for the petitioner submits that the petitioner/revisionist has not committed any offence in the manner alleged and most importantly, he is not named in the FIR inasmuch as the same is against unknown. He further submits that the petitioner has been implicated in this case on the basis of mere suspicion. It has next been submitted that the petitioner has been remanded in this case from another case. Learned counsel further submits that the petitioner has recently been released in another case of similar nature by this Court in Cr. Revision No. 189/2023 *vide* order dated 01.08.2023. The findings arrived at by the learned appellate courts for rejection of the bail application are based upon no material, who by impugned judgment arrived at an erroneous conclusion that the conduct of the CICL shows criminal proclivities and criminal psychology if he is released from the protective custody, there is



likelihood of going back in the same environment. It has next been submitted that the learned court below has passed the impugned order mechanically and without application of judicial mind. He next submits that the petitioner is in judicial custody since 08.09.2021.

5. Learned counsel has placed reliance upon Sections 3 (i) (iv) (v) and (xiv) of Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as 'the Act') which are quoted hereinbelow:-

(i) Principle of presumption of innocence: Any child shall be presumed to be an innocent of any mala fide or criminal intent up to the age of eighteen years.

\*\*\*\*\*

\*\*\*\*\*

(iv) Principle of best interest: All decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop full potential.

(v) Principle of family responsibility:- The primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents, as the case may be.



\*\*\*\*\*

\*\*\*\*\*

\*\*\*\*\*

(xiv) Principle of fresh start: All past records of any child under the Juvenile Justice system should be erased except in special circumstances.

6. Learned counsel, referring to the above mentioned provisions, submits that as per the scheme of the Act, there is presumption of innocence of a child in conflict with law and all decisions regarding the child shall be taken in consonance with the principle of best interest of the child. Learned counsel further submits that the principle of family responsibility and principle of fresh start have also been recognized in the Act.

7. In reference to Section 12 of the Act, learned counsel for the petitioner submits that bail to a child in conflict with law is a rule and denial is an exception.

8. Learned counsel in the aforesaid background, submits that the learned court below has failed to consider the scheme of the Act and has committed material irregularity in arriving at the conclusion that the petitioner, if released on bail would fall in the same environment.



9. On the other hand, learned counsel for the State submits that from perusal of Section 12 of the Act, it appears that bail is a matter of right to the petitioner and denial is an exception, this Court may consider to pass an appropriate order in accordance with the provisions of the Act.

10. From perusal of the records, it appears that petitioner is in custody since 08.09.2021.

11. A Bench of this Court in the judgment reported in **2019 (4) PLJR 833** in the case of **Lalu Kumar @ Lalbabu @ Lallu v. State of Bihar** while interpreting Section 12 of the Act has laid down the principle that the Board while considering the bail of a juvenile is duty bound to follow the principle of 'best interest', 'repatriation', and 'restoration' of child. The gravity and nature of offence are immaterial for consideration of bail of a juvenile. As per Section 12 of the Act of 2015 an application for bail is not decided by reference to classification of offences as bailable or non-bailable under the CrPC.

12. Having regard to the submissions made by the parties and taking into consideration the material on record and the fact that this petitioner has recently been released on bail by this Court in another similar nature of case *vide* Cr. Revision No. 189/2023, petitioner is not named in the FIR and there was



no material before the learned appellate court to come to the conclusion that the conduct of the CICL shows criminal proclivities and criminal psychology if he is released from the protective custody, there is likelihood of going back in the same environment, this Court is of the considered view that the impugned judgment and order passed by both the courts below are not sustainable in the eyes of law inasmuch as they are not consistent with the aims and objects of the Act.

13. Accordingly, judgment and order dated 24.01.2023 passed in Cr. Appeal No. 06/2022 by the learned Special Judge, Children Court, Gaya along with order dated 10.12.2021 passed by Juvenile Justice Board, Gaya in connection with Sherghati PS Case No. 346/2020 for the offence punishable under Sections 392 IPC, are hereby, set aside and the revisionist/petitioner, **Rohit @ Golu** is directed to 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 learned Juvenile Justice Board, Gaya in connection with aforementioned case, subject to the following conditions:-

1. That one of the bailors will be the mother of the petitioner.
2. The the mother of the petitioner shall file an



affidavit before the learned Juvenile Justice Board, Gaya with specific undertaking that after release of the CICL on bail, she will take proper care of the petitioner/CICL and will not let her fall into bad company.

14. With the aforesaid observations and directions, the instant application stands allowed.

(Anil Kumar Sinha, J)

perwez

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

