

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.280 of 2022

Arising Out of PS. Case No.-321 Year-2019 Thana- HUSSAINGANJ District- Siwan

Abrar Alam S/o Mohammad Alamgir @ Md. Alamgir Ansari Resident of
Village- Mahpur (Khajrauni), Hussainganj, District- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Shankar Kumar Choudhary
For the Respondent/s : Ms.Anita Kumari

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

7 27-02-2023 Heard counsel for the petitioner and the State.

Instant criminal revision application is directed against the judgment and order dated 09.02.2022 and 11.02.2021 passed by learned Presiding Officer Child Court-cum-Additional Sessions Judge Ist-cum-Special Judge, Siwan in Criminal Appeal No. 46 of 2021 and Juvenile Justice Court, Siwan in Juvenile Enquiry No. 12 of 2020 respectively arising out of Hussainganj PS Case No. 321 of 2019 (GR No. 4730 of 2019) registered for the offence under Section 302, 34 of the Indian Penal Code whereby and whereunder the prayer for bail of the petitioner has been rejected.

As per the prosecution case, on the alleged date and time of occurrence, some unknown person killed the grand-daughter of informant by sharp cutting weapon.



It is submitted on behalf of learned counsel for petitioner that petitioner has been declared juvenile by the Juvenile Justice Board, Siwan vide order dated 31.01.2020 as on the alleged date of occurrence, he was 17 years 6 months and 18 days. It is further submitted that Juvenile Justice Board as well as Children Court have 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 of the Juvenile Justice Board 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 custody since 12.12.2019.

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. From persual of Social Investigation Report it appears that there is no adverse report against the petitioner. Fresh Social Investigation Report dated 08.01.2023 has been found to be satisfactory. 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. The judgment and order dated 09.02.2022 and 11.02.2021 passed by learned Presiding Officer Child Court-cum-Additional Sessions Judge Ist-cum-Special Judge, Siwan in Criminal Appeal No. 46 of 2021 and Juvenile Justice Court, Siwan in Juvenile Enquiry No. 12 of 2020 respectively arising out of Hussainganj PS Case No. 321 of 2019 (GR No. 4730 of 2019), 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 Presiding Officer Child Court-cum-Additional Sessions Judge Ist-cum-Special Judge, Siwan in Criminal Appeal No. 46 of 2021 arising out of Hussainganj PS Case No. 321 of 2019 (GR No. 4730 of 2019) with further condition that **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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