

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.360 of 2022

Arising Out of PS. Case No.-357 Year-2021 Thana- BASANTPUR District- Siwan

XXXX S/o Satya Narayan Thakur R/o village- Janki Nagar, P.S.- Basantpur, District- Siwan, under Guardianship and Natural Guardian of his Uncle (Fufa) Namely Habaladar Singh @ Hawaldar Singh aged about 53 years, Gender Male, S/o Satan Singh, R/o village- Dharamraj Sughri, P.S.- Bhagwanpur Hat, District- Siwan

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Srinandan Pd. Singh, Advocate
		Mr. Ashok Kumar, Advocate
For the Respondent/s	:	Mr. Md. Ataur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 25-01-2023 Heard learned counsel appearing on behalf of the petitioner/revisionist and learned APP appearing on behalf of the State.

The present revision application is being preferred against order dated 25.04.2022 passed by the Court of learned Children Court cum 1st Additional District and Sessions Judge, Siwan, passed in Criminal Appeal No. 02 of 2022 in connection with J.E. Case No. 377 of 2021 corresponding to G.R. Case No. 3415 of 2021 arising out of Basantpur P.S. Case No. 357 of 2021 and order dated 04.12.2021 passed by Juvenile Justice Board, Siwan, whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.



The petitioner/revisionist, aged about 17 years 07 months 19 days on the alleged date of occurrence, is named in F.I.R., and is in custody/observation home since 25.08.2021.

The allegation against petitioner/revisionist is to commit murder of uncle of informant, who was running a hotel by causing firearm injury alongwith other co-accused persons due to previous enmities.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that the entire allegation is based upon hearsay input, where admittedly informant is not the eye-witness of the occurrence. It is further pointed out that no firearm as alleged to be used for the occurrence was recovered from the possession of petitioner during the course of investigation. It is further submitted that recovered motorcycle belongs to the brother of petitioner having no bearing over the merit of the case. It is further pointed out that co-accused person, namely, Abhishek Kumar has already been granted bail by one of the learned co-ordinate Bench of this Court vide order dated 25.07.2022 passed in Cr. Misc. No. 20835 of 2022. 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.).

Learned counsel appearing on behalf of the petitioner/revisionist submitted that uncle (Phupha) of the juvenile petitioner is ready to stand as a surety and furnish an undertaking that he 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 appearing on behalf of the State, while opposing the prayer of bail, submitted that there is specific allegation of firing against revisionist/petitioner.

Having regard to the submissions advanced as above, and entire allegation is based upon hearsay witness and materials showing that the petitioner has been adjudged juvenile aged about 17 years 07 months 19 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 more than one year and his uncle (Phupha) 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 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.), Siwan, in connection with J.E. Case No. 377 of 2021 corresponding to G.R. Case No. 3415 of 2021 arising out of Basantpur P.S. Case No. 357 of 2021.

One of the sureties should be the uncle (Phupha) of the petitioner and he 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.), Siwan 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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