

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.395 of 2022

Arising Out of PS. Case No.-347 Year-2021 Thana- ARA NAWADA District- Bhojpur

1. XXX, S/o Puran Singh Through Natural Guardian ship Mother Reena Devi, Female age about- 42 years, W/o Puran Singh, R/o village- Chilhaus, P.S.- Sandesh, District- Bhojpur
2. XXX, S/o Akhilesh Singh Through Natural Guardian ship Father Akhilesh Singh male age about- 50 years, S/o Raghav Singh, R/o village- Ekwari, P.S.- Sahar, District- Bhojpur

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Surendra Kumar Singh, Advocate Mr. Prabhat Kumar Singh, Advocate Ms. Priya, Advocate
For the Respondent/s	:	Mr. Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 10-11-2023 Heard learned counsel for the petitioners and Mr. Akhileshwar Dayal, learned APP for the State.

2. Petitioners in the present case are seeking setting aside of the judgment and order dated 27.04.2022 passed by learned 1st Additional District and Sessions Judge, Bhojpur at Ara in Cr. Appeal No.7 of 2022 whereby and whereunder the learned appellate court has been pleased to dismiss the appeal filed against the order dated 12.01.2022 passed by the learned Juvenile Justice Board, Bhojpur at Ara in J.J.B. Case No.993 of 2021 arising out of Ara Nawada P.S. Case No.347 of 2021



registered for the offences under Sections 307, 302 and 120B of the Indian Penal Code and Section 27 of the Arms Act by which the learned Board has been pleased to reject the prayer for bail of the petitioner.

3. As per the prosecution story, it is alleged that on 24.03.2021 while the informant along with his two sons had gone to meet his brother at Ara Civil Court and when they were returning, Prakash Chaudhary and Pawan Chaudhary started firing from their pistol due to which the son of the informant namely Dipu Chaudhary succumbed to injuries on the spot.

4. Learned counsel for the petitioners submits that by order dated 24.09.2021 passed by the learned Juvenile Justice Board, Bhojpur at Ara (hereinafter referred to as the 'Board') in J.J.B. Case No.993/2021 declared both the petitioners juvenile aged about 15 years 5 months 29 days and 15 years 9 months 25 days respectively. A certified copy of the order dated 24.09.2021 passed by the learned Board has been placed on record.

5. Learned counsel further submits that in the FIR six persons are named and specific allegations have been made by the informant against the main assailants, however,



these petitioners are not named. In course of investigation these petitioners have been brought within the purview of the investigation on the basis of so-called own confessional statement of the petitioners. It is stated that they have been involved in this case because of their acquaintances with the family of the main accused as they are co-villagers.

6. Learned counsel further submits that the petitioners are rotting in judicial custody since 05.07.2021. It is submitted that in view of the spirit of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, the petitioners deserve privilege of bail.

7. It is submitted that father of both the petitioners are ready to submit an undertaking that if released on bail the petitioners shall not be allowed to come in contact of any bad elements and the persons having criminal antecedents and further that the petitioners shall be kept outside the village connected with the mainstream of the society.

8. Learned APP for the State has opposed the prayer for bail of the petitioners. It is submitted that it would be in the interest of the petitioners only to keep them in the observations home/place of safety as they are likely to once again fall in the bad company. It is submitted that as per the



social investigation report of both the petitioners, they are suspected to be involved in the alleged occurrence.

9. In course of hearing, learned counsel for the petitioners has placed before this Court a copy of the order dated 05.05.2022 passed in Cr.Misc.No.45164 of 2021 and a copy of the order dated 06.07.2022 passed in Cr.Misc.No.48792 of 2021 by which the co-accused Golu Kumar @ Ajitesh Kumar and Ranjit Chaudhary have been granted regular bail by learned coordinate Benches of this Court.

10. Having regard to the facts and circumstances of the case and the submissions noted hereinabove, finding that the two petitioners have been declared juvenile aged about below 16 years on the alleged date of occurrence, they have spent more than two years in the observations home and at this stage their father are ready to furnish an undertaking that if released on bail they would keep the petitioners away from the village and connect them with the studies in the mainstream of the society, 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. versus 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 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.”

this Court sets aside the impugned order and directs release of the petitioners above named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Bhojpur at Ara in connection with Ara Nawada P.S. Case No.347 of 2021.

11. One of the bailors would be the father of the petitioners and they shall furnish an undertaking before the Board that after release of the petitioners from the observation homes, the petitioners shall be kept away from the village, connected with their studies and attached with the mainstream of the society and all efforts will be made to ensure that they amend themselves.



12. The Probation Officer attached to the court shall keep a vigil over the petitioners and in case the petitioners are found getting involved in any kind of offence, the same will be reported to the jurisdictional police station immediately by the father of the petitioners as well as the Probation Officer.

13. This application is allowed.

(Rajeev Ranjan Prasad, J)

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