

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.460 of 2022

Arising Out of PS. Case No.-137 Year-2020 Thana- HUSSAINGANJ District- Siwan

XXX

... .. Petitioner/S

Versus

1. The State of Bihar.
2. Shailendra Yadav, Son of Late Ram Nath Yadav, R/o Village- Parari, P.S.- M.H. Nagar, District- Siwan.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Angad Kunwar, Advocate
For the Respondent/s : Dr. Kumar Uday Pratap, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

5 08-02-2023 Heard learned counsel appearing on behalf of the petitioner/revisionist, learned APP appearing on behalf of the State as well as learned counsel appearing on behalf of the informant.

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 XXX.

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 05.05.2022 passed by the learned Presiding Officer, Juvenile Court-Cum-1st Addl. District and Sessions

Judge, District- Siwan in Cr. Appeal No. 7/2022 and order dated 20.01.2022 passed in G.R. No. 2084/2020, Hussainganj (M.H. Nagar) P.S. Case No. 137/2022, Juvenile Enquiry Case No. 55/2021 by learned Juvenile Justice Board, whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, adjudged as a juvenile on the date of occurrence i.e. 12.02.2021, where his age was assessed as 16 years 05 month 03 days, named in F.I.R., and is in custody/observation home since 27.01.2021.

The allegation against petitioner/revisionist is to commit murder of the father of the informant alongwith other co-accused persons by making assault with lathi, rod etc. due to long standing land disputes.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that allegation as regard to assault is very much general and omnibus against revisionist/petitioner. While concluding the argument, it is submitted that revisionist/petitioner is a man of clean antecedent. It is also submitted that other co-accused persons having similar allegations, have already been granted bail by this Court, through Cr. Misc. no. 66581 of 2021 and Cr. Misc. No. 33959 of 2020 dated

18.02.2022, and moreover, nothing adverse can be gathered from his Social Investigation Report (S.I.R.).

Learned counsel appearing on behalf of the petitioner/revisionist submitted that uncle of petitioner, namely, Shivji Yadav 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 as parents are also made accused in this case and he shall ensure his studies as well as that he would not fall in bad company and make all efforts to enable him to join the mainstream of society as a good and law abiding citizen in future.

Learned APP, while opposing the prayer of bail fairly conceded that the allegation against revisionist/petitioner is very much general and omnibus as regard to assault.

Having regard to the submissions advanced as above, and materials showing that the petitioner has been adjudged juvenile aged about 16 years 05 month 03 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 one year and his uncle 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 05.05.2022 passed by the learned Presiding Officer, Juvenile Court-Cum-1st Addl. District and Sessions Judge, District- Siwan in Cr. Appeal No. 7/2022 is set aside. Consequently, order dated 20.01.2022 passed in G.R. No. 2084/2020, Hussainganj (M.H.

Nagar) P.S. Case No. 137/2022, Juvenile Enquiry Case No. 55/2021 by learned Juvenile Justice Board, Siwan is also set aside.

In view of above facts and circumstances and by taking note of the accusation that petitioner adjudged as juvenile on the date of occurrence, 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, Siwan, in G.R. No. 2084/2020, Hussainganj (M.H. Nagar) P.S. Case No. 137/2022, Juvenile Enquiry Case No. 55/2021.

One of the sureties should be the uncle 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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