

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.457 of 2022

Arising Out of PS. Case No.-665 Year-2021 Thana- ARA NAGAR District- Bhojpur

XXX S/O BADRI YADAV @ BADRI RAY @ VADRI RAI Under guardianship of mother namely Durgavati Devi W/o Badri Yadav @ Badri Ray Resident of Village- Raghu Tola, P.S.- Ara Town, District- Bhojpur.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. RAM BABU YADAV RAMADHAR YADAV VILLAGE RAGHU TOLA WARD NO 34 P S ARA TOWN DISTRICT BHOJPUR
3. RAM BABU YADAV S/O RAMADHAR YADAV Resident of Village- Raghu Tola, Ward No.- 34, P.S.- Ara Town, District- Bhojpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Bhaskar Shankar, Advocate

For the Respondent/s : Mr.Pramod Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 25-01-2023 Heard learned counsel appearing on behalf of the petitioner and learned APP appearing on behalf of the State.

Name of petitioner/revisionist is shown as “XXX” in this order.

The present revision application is being preferred against order dated 30.05.2022 passed by learned 1st Additional Sessions Judge, Bhojpur at Ara in Criminal Appeal No. 22 of 2022 by which the learned Court refused to enlarge the petitioner on bail in connection with J.J.B. Case No.1113 of 2021 arising out of Ara Town P.S. Case No. 665 of 2021 registered for offence under Sections 302 and 34 of the Indian



Penal Code and 27 of Arms Act.

The petitioner/revisionist, aged about 15 years 05 months and 03 days on the alleged date of occurrence i.e. 18.09.2021, is named in F.I.R., and is in custody/observation home since 29.09.2021.

The allegation against this petitioner is to commit murder of the son of informant and one another person, namely, Janardhan Ray along with other co-accused persons by causing fire-arm injury, where it is alleged that indiscriminate fire was made by this petitioner and one co-accused, namely, Shambhu Yadav, where occurrence took place due to longstanding land dispute and also for money transactions.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that the allegation of firing is not specific against this petitioner, where admittedly occurrence is founded over money transaction and as such, false implication cannot be ruled out. It is also pointed out that petitioner is a man of clean antecedent, who just passed his matriculation examination, having all bright future to come in way. It is also submitted that other co-accused persons has been granted anticipatory bail through Cr. Misc. No. 34378 of 2022 vide order dated 26.09.2022. It is also submitted that the S.I.R.



(social investigation report) is also not suggesting any adverse against this petitioner.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that mother of the juvenile petitioner is ready to stand as a surety and furnish an undertaking that she 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 and to groom him as a good and law abiding citizen.

Learned APP for the State has opposed the prayer for bail of the petitioner/revisionist. Learned APP has, however, not pointed out any adverse material from the social investigation report.

Having regard to the submission and materials showing that the petitioner has been adjudged juvenile aged about 15 years 05 months and 03 days approximately on the alleged date of occurrence, 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 more than one year



and his mother is ready to stand as a surety and furnish an undertaking that if released on bail she 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, she 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/revisionist 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 Special Judge-cum-1st Additional Sessions Judge, Bhojpur at Ara/concerned Court in connection with Ara Town P.S. Case No. 665 of 2021.

One of the sureties shall be the mother of the petitioner/revisionist and she 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.), Bhojpur at Ara, regarding conduct of the petitioner. If found anything adverse against this petitioner/revisionist, the same will also be reported to the Board for necessary action.

(Chandra Shekhar Jha, J)

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