

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.406 of 2023

Arising Out of PS. Case No.-103 Year-2022 Thana- BHARGAMA District- Araria

SATISH KUMAR @ PRINCE KUMAR @ PRINCE KUMAR ANANDA
Son of Sitaram Paswan Resident of Village - Khutaha Baidhnathpur, East
Charaiya, Ward No.- 10, P.S.- Bhargama, District - Araria Under guardianship
of Jai Kishor Paswan, Male, Aged about 68 years S/o Asarfi Paswan, Resident
of Village - Dhima, P.S.- Banmankhi, District - Purnea.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Anil Prasad Singh, Adv.
For the Respondent/s : Ms. Anita Kumari, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 24-08-2023 Heard Mr. Anil Prasad Singh, learned counsel for
revisionist/petitioner and Ms. Anita Kumari, learned APP for the
State.

2. The present Cr. Revision application has been filed
against the judgment and order dated 12.05.2023 passed in Cr.
Appeal No. 04/2023 by the learned Additional Sessions Judge
1st Araria along with order dated 27.03.2023 passed by
Juvenile Justice Board, Araria in connection with JJB Case
No. 14/2023 relating to Bhargama PS Case No. 103/2022
for the offence punishable under Sections 147/ 148/ 149/ 341/
323/ 324/ 325/ 447/ 354(B)/ 302/ 504/ 506/34 of the IPC
whereunder both the learned courts below have refused to
release the revisionist/petitioner on bail.



3. As per FIR lodged on 18.05.2023, the petitioner along with six other named accused persons and about ten unknown miscreants in the backdrop of land dispute assaulted the father of the informant and his family members. One Sitaram Paswan assaulted the father of the informant by means of axe/Kulhari on his head who during course of treatment succumbed to his injuries. Other family members of the informant were also assaulted who received injuries.

4. Learned counsel for the petitioner submits that the petitioner/revisionist has not committed any offence in the manner alleged and he has been implicated in this case along with his all family members. From the FIR itself, it is evident that there is no allegation of assault against the petitioner. The petitioner has been declared juvenile on 24.01.2023 and since then he is in custody. It is further submitted that the similarly situated accused persons, namely, Manish Kumar has been granted anticipatory bail by a Bench of this Court in Cr. Misc. No. 4784/2023 and one Puja Devi @ Puja Kumar has been granted bail by a co-ordinate Bench of this Court vide Cr. Misc. No. 13897/2023. The findings arrived at by the learned appellate courts for rejection of the bail application are based upon no material, who by impugned judgment arrived at an



erroneous conclusion that the release of juvenile shall expose him to moral, physical or psychological danger. It has next been submitted that the learned court below has passed the impugned order mechanically and without application of judicial mind.

5. Learned counsel has placed reliance upon Sections 3 (i) (iv) (v) and (xiv) of Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as 'the Act') which are quoted hereinbelow:-

(i) Principle of presumption of innocence: Any child shall be presumed to be an innocent of any mala fide or criminal intent up to the age of eighteen years.

(iv) Principle of best interest: All decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop full potential.

(v) Principle of family responsibility:- The primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents, as the case may be.



(xiv) Principle of fresh start: All past records of any child under the Juvenile Justice system should be erased except in special circumstances.

6. Learned counsel, referring to the above mentioned provisions, submits that as per the scheme of the Act, there is presumption of innocence of a child in conflict with law and all decisions regarding the child shall be taken in consonance with the principle of best interest of the child. Learned counsel further submits that the principle of family responsibility and principle of fresh start have also been recognized in the Act.

7. In reference to Section 12 of the Act, learned counsel for the petitioner submits that bail to a child in conflict with law is a rule and denial is an exception.

8. Learned counsel in the aforesaid background, submits that the learned court below has failed to consider the scheme of the Act and has committed material irregularity in arriving at the conclusion that the petitioner, if released on bail shall defeat the ends of justice.

9. On the other hand, learned counsel for the State submits that from perusal of Section 12 of the Act, it appears



that bail is a matter of right to the petitioner and denial is an exception, this Court may consider to pass an appropriate order in accordance with the provisions of the Act.

10. From perusal of the records, it appears that petitioner is in custody since 24.01.2023 having clean antecedents.

11. A Bench of this Court in the judgment reported in **2019 (4) PLJR 833** in the case of **Lalu Kumar @ Lalbabu @ Lallu v. State of Bihar** while interpreting Section 12 of the Act has laid down the principle that the Board while considering the bail of a juvenile is duty bound to follow the principle of 'best interest', 'repatriation', and 'restoration' of child. The gravity and nature of offence are immaterial for consideration of bail of a juvenile. As per Section 12 of the Act of 2015 an application for bail is not decided by reference to classification of offences as bailable or non-bailable under the CrPC.

12. Having regard to the submissions made by the parties and taking into consideration the material on record and the fact that the petitioner is protective custody since 24.01.2023 having no criminal antecedent, there is no allegation of assault against him, and there was no material before the learned appellate court to come to the



conclusion that the release of juvenile shall expose him to moral, physical or psychological danger, this Court is of the considered view that the impugned judgment and order passed by both the courts below are not sustainable in the eyes of law inasmuch as they are not consistent with the aims and objects of the Act.

13. Accordingly, judgment and order dated 12.05.2023 passed in Cr. Appeal No. 04/2023 by the learned Additional Sessions Judge 1st Araria along with order dated 27.03.2023 passed by Juvenile Justice Board, Araria in connection with JJB Case No. 14/2023 relating to Bhargama PS Case No. 103/2022 for the offence punishable under Sections 147/ 148/ 149/ 341/ 323/ 324/ 325/ 447/ 354(B) / 302/ 504/ 506/34 of the IPC, are hereby, set aside and the revisionist/petitioner, ***SATISH KUMAR @ PRINCE KUMAR @ PRINCE KUMAR ANANDA*** is directed to 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 learned 1st Additional Sessions Judge, Araria in connection with aforementioned case, subject to the condition that one of the



bailors shall be the aunt/Bua of the juvenile/petitioner.

14. With the aforesaid observations and directions,
the instant application stands allowed.

(Anil Kumar Sinha, J)

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