

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.485 of 2022

Arising Out of PS. Case No.-22 Year-2020 Thana- KALER District- Jehanabad

XXXX S/o Late Lalan Singh Resident of Village- Aganur, P.S.- Kaler,
District- Jahanabad/Arwal.

... .. Petitioner/S

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Manoj Kumar, Advocate Mr. Raj Narayan Mishra, Advocate
For the Respondent/s	:	Mr. Navin Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 30-01-2023 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 28.07.2021 passed by the Court of learned Additional Session Judge-1st-cum-P.O. Children Court, Jehanabad/Arwal, in Children Case No. 09 of 2021 and order dated 28.01.2021 passed by J.J. Board, Jehanabad/Arwal, vide J.R. No. 405/2020, Enquiry No. 365(J)/2021 arising of Kaler P.S. Case No. 22/2020 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 20 days on the alleged date of occurrence i.e.

22.05.2020, is named in F.I.R., and is in custody/observation home since 17.09.2020.

The allegation against petitioner/revisionist is to commit murder of son of the informant alongwith other co-accused persons.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that it is not a case where deceased was called by petitioner, rather as per face of the FIR, it was the deceased who on his own went alongwith revisionist/petitioner. It is also submitted that as per FIR, even after two hours, the deceased was found fine as he was available for communication with informant, where he nothing alleged against this revisionist/petitioner. It is also submitted that death of son of informant caused by accident which is apparent from the postmortem report of the deceased. It is also submitted that save and except suspicion, nothing surfaced during the course of investigation which may connect this petitioner with present occurrence. It is also pointed out that petitioner is involved in one excise case, where he is already on bail. It is also submitted that Social Investigation Report (S.I.R.), also suggest non-involvement of petitioner/revisionist in present occurrence.

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 also grow him as a good and law abiding citizen.

Learned APP, while opposing the prayer of bail fairly conceded that informant is not the eye-witness of the occurrence and also that Social Investigation Report (SIR) is not suggesting any adverse report against this revisionist/petitioner.

Having regard to the submissions advanced as above, and materials showing that the petitioner has been adjudged juvenile aged about 17 years 07 months 20 days approximately on the alleged date of occurrence 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 more than two years 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 psychological 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.), Jehanabad/Arwal in

connection with Bihta P.S. Case No. 249 of 2021.

One of the sureties should be the mother of the petitioner 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.), Jehanabad/Arwal 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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