

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.482 of 2022

Arising Out of PS. Case No.-63 Year-2021 Thana- KINJAR District- Jehanabad

CHOTU KUMAR SON OF VIJAY SINGH R/O VILLAGE- JINPURA, P.S.
AND DISTRICT- ARWAL. THROUGH HIS NATURAL GUARDIAN HIS
FATHER VIJAY SINGH S/O LALDEV SINGH

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Rama Kant Singh
For the Respondent/s : Dr. Indihar Kumari

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 01-09-2023 Heard the parties.

2. The present Cr. Revision application has been filed against judgment and order dated 04.04.2022 passed in Cr. Appeal (Juvenile) No. 11/2022 by the learned I/C Additional Sessions Judge 1st ,-cum-P.O. Children Court, Jehanabad, along with order dated 24.02.2022 passed by Juvenile Justice Board, Jehanabad/Arwal in connection with Kinjar PS Case No. 63/2021, GR No.507/2021 for the offence punishable under Sections 395 of the IPC, whereunder both the learned courts below have refused to release the revisionist/petitioner on bail.

3. Prosecution case, as narrated in the FIR, is that the informant, being a driver of a Truck bearing registration no. BR10-GB-0621 along with his *Khalasi* were intercepted by motorcycle borne six unidentified miscreants and were deprived



of Rs. 35,000/- and mobile. It is further alleged that the informant and *Khalasi* of the truck were also beaten by the accused persons by means of butt of the pistol.

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 on the basis of mere suspicion inasmuch as the FIR is against unknown. Moreover, the name of the petitioner has transpired on the basis of confessional statement of a co-accused, namely, Aman Kumar. It is further submitted that a Cr. Revision No. 493/2022 has been withdrawn on 31.08.2023 on the ground of acquittal of the petitioner by the learned lower court itself. 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 considering the criminal antecedent of the petitioner and likelihood of bringing him into association with the criminal and antisocial elements on his release. 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 would fall in the same environment.

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 12.12.2021 and he has been declared juvenile by the Juvenile Justice Board on 28.01.2022.



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 in protective custody since 12.12.2021, his name has transpired on the basis of confessional statement of a co-accused and the learned appellate court erroneously came to the conclusion that there is likelihood of bringing him into association with the criminal and antisocial elements on his release, 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 04.04.2022 passed in Cr. Appeal (Juvenile) No. 11/2022 by the learned I/C Additional Sessions Judge 1st , -cum-P.O. Children Court, Jehanabad, along with order dated 24.02.2022 passed by Juvenile Justice Board, Jehanabad/Arwal in connection with Kinjar PS Case No. 63/2021, GR No.507/2021 for the offence punishable under Sections 395 of the IPC are hereby, set aside and the revisionist/petitioner, **Chotu Kumar** 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 Juvenile Justice Board, Jehanabad/Arwal in connection with aforementioned case subject to the condition that mother of the petitioner shall be one of the bailors.

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

(Anil Kumar Sinha, J)

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