

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.447 of 2023

Arising Out of PS. Case No.-419 Year-2020 Thana- DUMRAO District- Buxar

MUNNA CHOUDHARY @ MANU KUMAR CHOUDHARY S/O NAGA
CHAUDHARY R/O VILLAGE- NAYA BHOJPUR, PS. DUMRAON (NAYA
BHOJPUR O.P.), DIST. BUXAR

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Shankar Kumar, Adv
For the Respondent/s : Mr. Umesh Lal Verma, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 18-08-2023 Heard Mr. Shankar Kumar, learned counsel for
revisionist/petitioner and Mr. Umesh Lal Verma, learned APP
for the State.

2. The present Cr. Revision application has been filed
against the judgment and order dated 29.11.2022 passed in Cr.
Appeal No. 67/2022 by the learned Additional District &
Sessions Judge 1st -cum-Special Judge (SC/ST & Children
Court), Buxar along with order dated 22.09.2022 passed by
Juvenile Justice Board, Buxar in connection with Dumraon
(Naya Bhojpur OP) PS Case No. 419/2020, JJB Case No.
760/2021 for the offence punishable under Sections 365 IPC and
later on Sections 341/323/325/302/379/504/34 of the IPC
whereby and whereunder both the learned courts below have



refused to release the revisionist/petitioner on bail.

3. As per FIR lodged on 27.11.2020 by the informant, that while he was working in his field, he was informed that accused persons seven in number were assaulting his family members wherein his wife, daughter and son received injury. It is further alleged that he was also assaulted by means of iron rod on his head by accused persons, namely, Rishikesh Chaudhary and Ram Pravesh Chaudhary due to which he received serious injury. It is also alleged that the petitioner has assaulted his son Vicky by means of *Danda* and broken his right hand's finger.

4. Learned counsel for the petitioner submits that the petitioner/revisionist has not committed any offence in the manner alleged. He further submits that the petitioner has been implicated in this case on the basis of mere suspicion and further in order to destroy his career as he is a meritorious student. 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 the petitioner would not only expose him to moral, physical and psychological danger but would also lead to defeat of the ends of justice. It has next been submitted that the learned court below has passed the impugned order



mechanically and without application of judicial mind. He next submits that the petitioner is in judicial custody since 28.09.2021 and he has been declared juvenile by the JJB, Buxar vide order dated 07.09.2022.

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 defeat the ends of justice as the petitioner has committed a heinous crime.

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 29.01.2022.

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 being declared juvenile is in protective custody since 28.09.2021, and there was no material before the learned appellate court to come to the conclusion that the release of the petitioner



would not only expose him to moral, physical and psychological danger but would also lead to defeat of the ends of justice, 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 29.11.2022 passed in Cr. Appeal No. 67/2022 by the learned Additional District & Sessions Judge 1st -cum-Special Judge (SC/ST & Children Court), Buxar along with order dated 22.09.2022 passed by Juvenile Justice Board, Buxar in connection with Dumraon (Naya Bhojpur OP) PS Case No. 419/2020, JJB Case No. 760/2021 for the offence punishable under Sections 365 IPC and later on Sections 341/323/325/302/379/504/34 of the IPC, are hereby, set aside and the revisionist/petitioner, ***Munna Choudhary @ Manu Kumar Choudhary*** 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 Additional District & Sessions Judge 1st -cum-Special Judge (SC/ST & Children Court), Buxar, in connection with aforementioned case, subject to the following conditions:-



I]. That one of the bailors will be the mother of the petitioner.

II]. That the mother of the petitioner shall file an affidavit before the learned Juvenile Justice Board, Buxar with specific undertaking that after release of the CICL on bail, she will take proper care of the petitioner/CICL and will not let her fall into bad company.

14. With the aforesaid observation and direction, the instant application stands allowed.

(Anil Kumar Sinha, J)

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