

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.530 of 2022

Arising Out of PS. Case No.-78 Year-2021 Thana- BAJPATTI District- Sitamarhi

XYZ

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Birendra Kumar, Advocate

For the Respondent/s : Mr. Manoj Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 31-01-2023 Heard learned counsel appearing on behalf of the
petitioner/revisionist.

Though the petitioner has given full description in the application, it would be inappropriate to disclose his identity in view of the statutory provisions prescribed under Section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'the Act of 2015'). He is being referred to in the cause title as XYZ.

Registry while uploading the order on the website shall also ensure that the cause title is reflected in similar manner.

Considering the submission as made, learned counsel for the petitioner is permitted to make necessary correction in the prayer portion (at page no.15) of the present petition, during



course of day.

The present revision application is being preferred against impugned order dated 10.06.2022 passed by learned 1st Additional Sessions Judge-cum-Special Judge (Children Court), Sitamarhi in Criminal Appeal No. 27 of 2022 and order dated 24.09.2021 passed by the Learned Principal Magistrate, Juvenile Justice Board, Sitamarhi in J.J.B. Case No. 1225 of 2021 (arising out of Bajpatti P.S. Case No. 78 of 2021), whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, aged about 15 years 04 months and 19 days on the alleged date of occurrence i.e. 29.03.2021, is named in F.I.R., and is in custody/observation home since 15.04.2021.

The allegation against this petitioner is to deter the police personnels while discharging their official duty when police party arrived in village to search the premises of the petitioner/revisionist and arrest the father of this petitioner/revisionist, who alleged to be engaged in illegal activities of liquor, which is prohibited in the State.

It is submitted by learned counsel appearing on behalf of the petitioner/revisionist that allegation against this



petitioner/revisionist is very much general and omnibus without having any specific allegation and implication is only for the reason that police actions was against the father of this revisionist/petitioner. It is also pointed out by learned counsel that another juvenile facing similar allegation has already granted bail by one of the learned co-ordinate Bench of this Court through Cr. Revision No. 738 of 2021 dated 29.06.2022. It is also submitted that petitioner/revisionist is involved in two more case arises out of same transaction on the same very day. It is submitted that mother of the petitioner is ready to furnish undertaking on affidavit to bring petitioner/revisionist into mainstream of the society by extending her best possible care. It is also submitted that material can be gathered against this petitioner/revisionist from the social investigation report, which may suggest that petitioner/revisionist can not returned back to the mainstream of society.

Learned APP appearing on behalf of the State while opposing the prayer of bail fairly conceded the fact that allegation against this petitioner/revisionist is very much general and omnibus in nature, as regard to deter the police personnel, while discharging their official duty.

In view of the facts and circumstances and by taking



note of the nature of allegation, where, petitioner/revisionist has been adjudged juvenile aged about 15 years 04 months and 19 days approximately on the alleged date of occurrence and the social investigation report of the petitioner is also 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 about two years and his father is ready to stand as a surety and furnish an undertaking that if released on bail he 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, he 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, the impugned order dated 10.06.2022 passed in Criminal Appeal No. 27 of 2022 by the Court of learned 1st Additional Sessions Judge-cum-Special Judge (Children Court), Sitamarhi, is set-aside. Consequently, the order dated 24.09.2021 passed in J.J.B. Case No. 1225 of 2021 (arising out of Bajpatti P.S. Case No. 78 of 2021) by the learned Juvenile Justice Board, Sitamarhi, is also set-aside.

The petitioner/revisionist is directed to be released 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, Sitamarhi/concerned Court in connection with J.J.B. Case No. 1225 of 2021 (arising out of Bajpatti P.S. Case No. 78 of 2021).

One of the sureties should 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.), Sitamarhi, regarding conduct of



the petitioner/revisionist. 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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