

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.520 of 2022

Arising Out of PS. Case No.-196 Year-2018 Thana- BATHNAHA District- Sitamarhi

Raja @ Raja Kumar @ Aryan Raj Son of Uma Shankar Prasad Yadav
Resdient of Village- Sandwara, P.S.- Bajpatti, District - Sitamarhi. Under
Guardianship of his father Uma Shankar Prasad Yadav, aged about 58 years
Son of Late Shyamsundar Rai, Resident of Village - Sandwara, P.S.- Bajpatti,
District - Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Virendra Kumar, Advocate
For the Respondent/s : Mr. Sanjay Kumar Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 31-01-2023 Heard learned counsel appearing on behalf of the
petitioner and learned APP appearing on behalf of the State.

The present revision application is being preferred
against judgment dated 25.06.2022 passed by learned 1st
Additional Sessions Judge-cum-Special Judge (Children's
Court), Sitamarhi in Criminal Appeal No. 28 of 2022 by which
the learned Court refused to enlarge the petitioner on bail in
connection with J.J.B. Case No.453 of 2022 arising out of
Bathnaha P.S. Case No. 196 of 2018 registered for offence under
Section 392 of Indian Penal Code.

The petitioner/revisionist, as adjudged aged about 15
years 09 months and 05 days on the alleged date of occurrence



i.e. 23.06.2018, is not named in F.I.R., and is in custody/observation home since 05.08.2021.

The allegation against this petitioner is to commit robbery alongwith other co-accused persons and while committing so took away cash worth Rs. 1,10,000/- (Rupees One Lakh Ten Thousand) belonging to informant.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that petitioner/revisionist is not named in the F.I.R., where his name surfaced on the basis of confessional statement of co-accused namely Ayush Kumar @ Abhishek Singh, who is on bail. It is further submitted that in furtherance of said confessional statement, no incriminating material recovered/surfaced during the course of investigation, which may connect this petitioner/revisionist with the present set of robbery. It is also pointed out that petitioner was not put on T.I.P. as yet. It is also submitted that petitioner is involved in six more criminal cases of almost similar nature, where his name surfaced on the basis of confessional statement as of the present case, due to local enmity of his parents. It is also pointed out that the Social Investigation Report (S.I.R.) of the petitioner is not showing any adverse material, suggesting that he cannot be brought into main stream of society.



Learned counsel appearing on behalf of the petitioner/revisionist submitted that father of the juvenile petitioner is ready to stand as a surety and furnish an undertaking that he 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.

Learned APP for the State, while opposing the prayer for bail fairly conceded that petitioner is not named in the F.I.R. It is also submitted that social investigation report is not suggesting anything adverse which may suggest that there is no scope of progressive reform of juvenile.

Having regard to the submission and materials showing that the petitioner has been adjudged juvenile aged about 15 years 09 months and 05 days approximately on the alleged date of occurrence, no active participation of the petitioner has been alleged, 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 for more than one year and his father/mother 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, this court sets-aside the impugned order and directs release of the petitioner/revisionist 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 1st Additional Sessions Judge-cum-Special Judge (Children's Court), Sitamarhi/concerned Court in connection with Bathnaha P.S. Case No. 196 of 2018.

One of the sureties should be the father of the petitioner/revisionist and he 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. 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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