

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.540 of 2022**

Arising Out of PS. Case No.-247 Year-2021 Thana- JOGAPATTI District- West Champaran

XYZ

... .. Petitioner/s

Versus

1. The State of Bihar
2. KALAWATI DEVI W/O SRI UMESH CHAUDHARY R/o Village-
Nawalpur, P.S.- Jogapatti (Nawalpur), District- West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Umesh Chandra Verma, Advocate
For the Respondent/s	:	Mr. Shailendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 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.

The present revision application is being preferred



against impugned order dated 07.07.2022 passed by learned 1st Additional Sessions Judge-cum-Special Judge, under SC/ST Act, West Champaran at Bettiah in Criminal Appeal No. 16 of 2022 and order dated 10.03.2022 passed by the Learned Principal Magistrate, Juvenile Justice Board, West Champaran at Bettiah in J.J.B. Case No. 737 of 2021 [arising out of Jogapatti (Nawalpur) P.S. Case No. 247 of 2021], whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, aged about 16 years 05 months and 05 days on the alleged date of occurrence i.e. 07.06.2021, is named in F.I.R., and is in custody/observation home since 19.08.2021.

The allegation against this petitioner is to commit murder of the husband of the informant along with other co-accused persons by making assault with iron rod, *lathi*, etc., due to long standing land dispute.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that allegation as regard to assault is very much general and omnibus against this petitioner/revisionist, where co-accused persons carrying specific allegations, as regard to assault, have already been



granted bail by one of learned co-ordinate Bench of this Court through Cr. Misc No. 26697 of 2022 dated 09.11.2022. It is also pointed out that petitioner/revisionist is a man of clean antecedent and maternal uncle of the petitioner/revisionist filed affidavit, where, he undertakes to extend all possible care to groom this petitioner/revisionist as good and law abiding citizen after releasing on bail. It is also submitted that no adverse report can be gathered as regard to this petitioner/revisionist from his social investigation report, which may suggest that petitioner cannot returned to mainstream of society.

Learned APP appearing on behalf of the State while opposing the prayer of bail fairly conceded the fact that the allegations as regard to assault is very general and omnibus against this petitioner/revisionist.

In view of the facts and circumstance and by taking note of nature of allegation, where, petitioner/revisionist has been adjudged juvenile aged about 16 years 05 months and 05 days on the alleged date of occurrence, he has no criminal antecedent 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 one and half years and his maternal uncle 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 07.07.2022 passed in Criminal Appeal No. 16 of 2022 by the Court of learned 1st Additional Sessions Judge-cum-Special Judge, under SC/ST Act, West Champaran at Bettiah, is set-aside. Consequently, the order dated 10.03.2022 passed in J.J.B. Case No. 737 of 2021 [arising out of Jogapatti (Nawalpur) P.S. Case No. 247 of 2021] by the learned Principal Magistrate, Juvenile Justice Board, West Champaran at Bettiah, 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 Principal Magistrate, Juvenile Justice Board, West Champaran at Bettiah/concerned Court in connection with in connection with J.J.B. Case No. 737 of 2021 [arising out of Jogapatti (Nawalpur) P.S. Case No. 247 of 2021].

One of the sureties should be the maternal uncle 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.), West Champaran at Bettiah,



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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