

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.497 of 2023**

Arising Out of PS. Case No.-4 Year-2023 Thana- MARAUNA District- Supaul

SHIV KUMAR YADAV @ SHIV KUMAR S/O DUKHI YADAV R/O  
VILLAGE- PARIKONCH TOL, WARD NO. 05, PS. MARAUNA, DIST.  
SUPAUL, UNDER GUARDIAN SHIP OF THE FATHER DUKHI YADAV  
SON OF LATE BHOGI LAL YADAV R/O VILLAGE- PARIKONCH,  
WARD NO. 05, PS. MARAUNA, DIST SUPAUL

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr.Ranjay Kumar Singh  
For the Respondent/s : Mr. Kalyan Shankar

**CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA**  
**ORAL ORDER**

3      21-08-2023                      Heard Mr. Ranjay Kumar Singh, learned counsel for  
revisionist/petitioner and Mr. Kalyan Shankar, learned APP for  
the State.

2. The present Cr. Revision application has been filed  
against the judgment and order dated 09.06.2023 passed in Cr.  
Appeal No. 13/2023 by the learned Additional Sessions Judge  
1<sup>st</sup> -cum-Special Judge, Juvenile Court, Supaul along with order  
dated 14.03.2023 passed by Juvenile Justice Board, Supaul in  
connection with Marauna PS Case No. 04/2023 for the offence  
punishable under Sections 395/412 IPC whereunder both the  
learned courts below have refused to release the  
revisionist/petitioner on bail.

3. As per FIR lodged on 18.01.2023 by the informant,



that while he was returning to his home after finishing his job and as soon as he reached near Chharrapatti Chhoti Puliya, six motorcycle borne unidentified miscreants intercepted him and on the point pistol deprived him of his money containing Rs.9760/-, a OPPO mobile bearing No. 7032964313.

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. It has next been submitted that the petitioner is a student of Intermediate having bright prospect in the future. The petitioner is in custody since 19.01.2023 and his association with other criminal inmates in the custody may spoil his future. 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 conduct of the CICL shows criminal proclivities and criminal psychology if he is released from the protective custody, there is likelihood of going back in the same environment. 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.

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(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.

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(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 19.01.2023 having clean



antecedents.

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 protective custody since 19.01.2023 and there was no material before the learned appellate court to come to the conclusion that the conduct of the CICL shows criminal proclivities and criminal psychology, 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 09.06.2023 passed in Cr. Appeal No. 13/2023 by the learned Additional Sessions Judge 1<sup>st</sup> -cum-Special Judge, Juvenile Court, Supaul along with order dated 14.03.2023 passed by Juvenile Justice Board, Supaul in connection with Marauna PS Case No. 04/2023 for the offence punishable under Sections 395/412 IPC, are hereby, set aside and the revisionist/petitioner, ***Shiv Kumar Yadav @ Shiv 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, Supaul in connection with aforementioned case, subject to the condition that one of the bailors shall be the father of the juvenile/petitioner.

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

**(Anil Kumar Sinha, J)**

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