

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.487 of 2023**

Arising Out of PS. Case No.-652 Year-2021 Thana- BEGUSARAI MUFFASIL District-
Begusarai

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SULENDRA @ SOLIYA @ SURENDRA KUMAR S/O KAMDEV @
KAMDEV NISHAD (Age was assessed to be 16 years and 20 days on the
date of occurrence by Juvenile Justice Board, Begusarai, through his father
Kamdev @ Kamdev Nishad, aged about 56 years(Male), S/O Bhullat Nishad,
Resident of Village- Lavki Bind Toli Simaria Ghat, Malhipur, P.S- Barauni,
Distt.- Begusarai.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Binod Kumar
For the Respondent/s : Mr.Umeshanand Pandit

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

3 08-08-2023 Heard the parties.

2. The present Cr. Revision application has been filed
against the judgment and order dated 27.04.2023 passed in Cr.
Appeal No. 74/2023 in connection with JJB No. 256/2022
arising out of Mufassil PS Case No. 652/2021 by the learned 1st
Additional Sessions Judge-cum-Special Judge, Children's
Court, Begusarai as well as order dated 13.09.20223 passed by
Juvenile Justice Board, Begusarai for the offence punishable
under Sections 392/297 of the IPC and Section 27 of the Arms
Act, whereby and whereunder the learned courts below have
refused to release the revisionist/petitioner on bail.

3. The FIR lodged on 31.12.2021 discloses the fact



that the informant while sitting in his shop was deprived of Rs. 60,000/- on the point of pistol by three unidentified miscreants.

4. Learned counsel for the petitioner submits that the petitioner/revisionist has not committed any offence in the manner alleged inasmuch he is not named in the FIR. He next submits that the petitioner has been implicated on the basis of mere suspicion. He further submits that the findings arrived at by the learned appellate court for rejection of the bail application are based upon no material who by impugned judgment arrived at an erroneous conclusion that if the order of release of the petitioner is passed, it may defeat the ends of justice and lead to an unwanted moral, physical and psychological danger to the CICL. 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 has been declared juvenile *vide* order dated 24.08.2022 by the JJB, Begusarai.

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 05.08.2022.

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 there was no material before the learned appellate court to come to the conclusion that if the order of release of the petitioner is passed, it may defeat the ends of justice and lead to an unwanted moral, physical and psychological danger to the CICL and taking into consideration that the petitioner has been implicated in this case on the basis of suspicion, he is in judicial custody since 05.08.2022 and he has been declared juvenile *vide* order dated 24.08.2022 by the JJB, Begusarai, this Court is of the considered view that the impugned judgment and order passed by the court below is not sustainable in the eyes of law inasmuch as the same is not consistent with the aims and objects of the Act.

13. Accordingly, the judgment and order dated



27.04.2023 passed in Cr. Appeal No. 74/2023 in connection with JJB No. 256/2022 arising out of Mufassil PS Case No. 652/2021 by the learned 1st Additional Sessions Judge-cum-Special Judge, Children's Court, Begusarai as well as order dated 13.09.20223 passed by Juvenile Justice Board, Begusarai for the offence punishable under Sections 392/297 of the IPC and Section 27 of the Arms Act, is hereby, set aside and the revisionist/petitioner, **SULENDRA @ SOLIYA @ SURENDRA KUMAR @ SULINDRA 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, Begusarai in connection with JJB No. 256/2022 arising out of Mufassil PS Case No. 652/2021, subject to the condition that one of the bailors will be the father of the petitioner.

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

(Anil Kumar Sinha, J)

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