

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.575 of 2022

Arising Out of PS. Case No.-435 Year-2020 Thana- MAJHAULIA District- West Champaran

XXX Son of Late Madan Mahato R/V- Dhankutwa, P.S- Majhauiliya, Dist- West Champaran, through his Mother being natural guardian namely- Munni Devi @ Muni Devi, aged about 47 years, female, W/O Madan Mahato, R/V- Dhankutwa, P.S- Majhauiliya, Dist- West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate

For the Respondent/s : Mr. Zeyaul Hoda, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 25-01-2023 Heard learned counsel appearing on behalf of the petitioner and learned APP appearing on behalf of the State.

Name of petitioner/revisionist is shown as “XXX” in this order.

The present revision application is being preferred against order dated 21.06.2022 passed by learned Additional District and Sessions Judge 1st cum Children’s Court, West Champaran at Bettiah in Criminal Appeal No. 08 of 2022 and also for setting aside the order dated 06.08.2021 passed by the learned Juvenile Justice Board, West Champaran at Bettiah by which the learned Court refused to enlarge the petitioner on bail in connection with J.J.B. Case No. 575 of 2021 arising out of Majhauiliya P.S. Case No. 435 of 2020 registered for offence



under Sections 399, 400, 402, 411, 413, 414 of IPC and u/s 25(1-b)a, 26 and 35 of Arms Act.

The petitioner/revisionist, aged about 17 years 05 months and 26 days on the alleged date of occurrence i.e. 21.06.2020, is named in F.I.R., and is in custody/observation home since 22.06.2020.

The allegation against this petitioner is to have in possession of one dagger/knife and one mobile.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that the alleged recovery of dagger/knife was not made from conscious physical possession of this petitioner. It is also submitted that seizure list witnesses were not independent as claimed for the reason that they put their signature over seizure list under police pressure. It is also pointed out that the antecedents of the petitioner, prior to this occurrence was clean but subsequent to this his name found involved in 8 occurrences of robbery, without having any connecting evidence merely on the basis of confessional statement and as such there is need to save this juvenile from the hand of police atrocities. It is also submitted that the S.I.R. (social investigation report) is also not suggesting any adverse against this petitioner.



Learned counsel appearing on behalf of the petitioner/revisionist submitted that mother of the juvenile petitioner is ready to stand as a surety and furnish an undertaking that she 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 and to groom him as a good and law abiding citizen.

Learned APP for the State has opposed the prayer for bail of the petitioner/revisionist. Learned APP has, however, not pointed out any adverse material from the social investigation report.

Having regard to the submission and materials showing that the petitioner has been adjudged juvenile aged about 17 years 05 months and 26 days approximately on the alleged date of occurrence, he has no criminal antecedent prior to this occurrence and 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 two years and his mother is ready to stand as a surety and furnish an undertaking that if released on bail



she 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, she 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 Juvenile Justice Board, West Champaran at Bettiah/concerned Court in connection with Majhauriya P.S. Case No. 435 of 2020.

One of the sureties shall 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.), West Champaran at Bettiah, 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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