

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.569 of 2022

Arising Out of PS. Case No.-415 Year-2020 Thana- MAJHAULIA District- West Champaran

XXX S/O LATE MADAN MAHTO Resident of Village- Dhankutwa, P.S.-
Majhauiliya District- 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.Anita Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 25-01-2023 Heard learned counsel appearing on behalf of the

petitioner/revisionist and learned counsel appearing on behalf of

the State.

Name of the petitioner/revisionist is shown as “XXX”

in this order.

The present revision application is being preferred

against judgement dated 21.06.2022 passed by learned
Additional District and Sessions Judge 1st-cum-Children Court,
West Champaran at Bettiah in Criminal Appeal No. 07 of 2022
and also for setting aside the order dated 06.08.2021 passed by
the learned Juvenile Justice Board, West Champaran at Bettiah
in J.J.B. Case No. 574 arising out of Majhauiliya P.S. Case No.
415 of 2020 registered for offence under Section 393 of the
Indian Penal Code and Section 27 of Arms Act in which,



charge-sheet has been submitted under Section 395 and 412 of the Indian Penal Code.

The petitioner/revisionist adjudged as juvenile, aged about 17 years 05 months and 24 days on the alleged date of occurrence i.e. 19.06.2020, is not named in F.I.R., and is in custody/observation home since 27.11.2020.

The allegation against the revisionist/petitioner is to commit robbery, along with other co-accused persons, and while committing so, taken away Rs. 5 lakh cash which belongs to informant.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that petitioner is not named in the FIR and his name surfaced during the course of investigation on the basis of confessional statement of co-accused person, where in furtherance thereof no incriminating material recovered/surfaced which may incriminate the petitioner with the present set of occurrence/robbery. It is submitted that petitioner/revisionist was not put on TIP, as yet despite of claim. It is further submitted that similarly situated co-accused person namely, Rintu Ojha @ Sidhdrthanath Ojha, has already been granted bail by one of the learned Co-ordinate Bench of this Court through Cr. Misc. No. 22081 of 2021 vide order dated



22.10.2021. While concluding the argument, it is submitted that revisionist/petitioner was found involved in 8 more cases of similar nature, where his name surfaced almost in all cases on the basis of confessional statement of co-accused person, as of the present case.

Learned APP, while opposing the prayer of bail, submitted that petitioner is a man of criminal antecedents, but fairly conceded that no adverse finding surfaced from perusal of social investigation report (SIR) of revisionist/petitioner.

Having regard to the submission and materials showing that the petitioner has been adjudged juvenile aged about 17 years 05 months and 24 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 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 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 J.J.B Case No. 574 of 2021 arising out of Majhauriya P.S. Case No. 415 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/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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