

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.572 of 2022

Arising Out of PS. Case No.-501 Year-2021 Thana- GHORASAHAN District- East
Champaran

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XXXX S/o Shiv Shankar Prasad R/o village- Dhumnagar Phatehpur Tola,
P.S.- Lakhaya, District- East Champaran, Motihari, under the guardianship of
father namely Shivshankar Prasad, R/o village Majirwa Phatehpur, P.S.-
Lakhaya, District- East Champaran, Motihari

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar, Advocate

For the Respondent/s : Mr. Satyendra Narayan Singh, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 06-01-2023 Heard learned counsel appearing on behalf of the

petitioner and learned APP appearing on behalf of the State

through virtual court proceedings.

The present revision application is being preferred
against judgement dated 15.07.2022 passed by learned First
Additional Session Judge-cum-Special Judge Children's Court
East Champaran, Motihari in Criminal Appeal No. 22 of 2022
in connection with Gorasahan P.S. Case No. 501 of 2021,
registered for offences under Sections 399, 402 and 414 of the
Indian Penal Code, under Sections 25(1-b)a, 26 and 35 of the
Arms Act and under Sections 8 and 20(b)(11)(c) of the N.D.P.S.
Act, and also the order dated 27.03.2022 passed by the learned
Court of Juvenile Justice Board, East Champaran, Motihari JJB



TR. No. 125 of 2022 arising out of Gorasahan P.S. Case No. 501 of 2021 whereby and where under the learned Court has rejected the prayer for bail.

The petitioner/revisionist, aged about 17 years 01 month and 6 days on the alleged date of occurrence i.e. 14.02.2022, is named in F.I.R., and is in custody/observation home since 26.11.2021.

The allegation against petitioner is to participate in preparation for dacoity, along with other co-accused persons and also to have in possession of stolen property along with firearms and narcotics substances.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that petitioner/revisionist has been falsely implicated in this case. It is also submitted that petitioner/revisionist is a juvenile, aged about 17 years 01 month and 6 days on the alleged date of occurrence, where he is in custody/observation home since 26.11.2021. It is submitted that no alleged contraband/narcotics and firearm were recovered from the possession of this petitioner/revisionist. It is also pointed out that petitioner/revisionist is a man of clean antecedent.

Learned counsel appearing on behalf of the



petitioner/revisionist submitted that father of the juvenile petitioner is ready to stand as a surety and furnish an undertaking that he 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.

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 01 months and 6 days approximately on the alleged date of occurrence, no active participation of the petitioner has been alleged, he has no criminal antecedent 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 one year and his father 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, this court sets-aside the impugned order and directs release of the petitioner 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 First Additional Session Judge-cum-Special Judge, East Champaran, Motihari, in connection with Gorasahan P.S. Case



No. 501 of 2021.

One of the sureties should be the father of the petitioner 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.), East Champaran, Motihari, regarding conduct of the petitioner. If found anything adverse against this petitioner, the same will also be reported to the Board for necessary action.

(Chandra Shekhar Jha, J)

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