

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.605 of 2022

Arising Out of PS. Case No.-346 Year-2021 Thana- RAMNAGAR District- West Champaran

Rahul Kumar Son of Sri Jitendra Sah through his father and Natural guardian
Sri Jitendra Sah S/O- Late Kapildeo Sah, Both Resident of Village - Sabuni
Chuk, P.S.- Ramnagar, Distt.- West Champaran

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Ms. Namrata Mishra, Advocate
	:	Mr. Archana Jha, Advocate
For the Respondent/s	:	Mr. Anuj Kumar Shrivastava, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 18-01-2023 Heard learned counsel appearing on behalf of the pe-
titioner and learned APP appearing on behalf of the State.

The present revision application is being preferred against judgement dated 05.07.2022 passed by learned Additional District and Sessions Judge, 1st cum Special Judge, Bettiah in Criminal Appeal No. 29 of 2022 by which the learned Court refused to enlarge the petitioner on bail in connection with J.J.B. Case No. 613 of 2022 arising out of Ram Nagar P.S. Case No. 346 of 2021 registered for offence under Sections 302 and 201 of the Indian Penal Code.

The petitioner/revisionist, aged about 14 years 09 month and 12 days on the alleged date of occurrence i.e.



12.10.2021, is not named in F.I.R., and is in custody/observation home since 17.10.2021.

The allegation against this petitioner is to commit murder of the son of informant with other co-accused persons due to previous enmities.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that petitioner is not named in F.I.R. and his name surfaced on the basis of confessional statement of co-accused persons, namely, Rahul Kumar son of Chhotelal Sah, where nothing incriminating surfaced during the course of investigation, which may connect this petitioner/revisionist with present set of occurrence/murder. It is also submitted that similarly situated co-accused namely, Shatrudhan Kumar @ Shatrudhan Sah has already been granted bail by one of the learned Co-ordinate Bench of this Court through Cr. Misc No. 9880 of 2022 vide order dated 15.11.2022. It is also submitted that S.I.R. (Social Investigation Report) is not suggesting anything adverse against this petitioner.

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 en-



sure 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 while opposing the prayer for bail fairly conceded that petitioner/revisionist was not named in the F.I.R.

Having regard to the submission and materials showing that the petitioner has been adjudged juvenile aged about 14 years 09 months and 12 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/mother 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/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 Additional District and Sessions Judge, 1st cum Special Judge, Bettiah/concerned Court in connection with Ramnagar P.S. Case No. 346 of 2021.

One of the sureties should be the father of the petitioner/revisionist 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.), West Champaran, 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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