

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.602 of 2022

Arising Out of PS. Case No.-1068 Year-2021 Thana- ARA NAWADA District- Bhojpur

XXXX S/o Anuj Kumar R/o Mohalla- New Karman Tola, P.S.- Ara, District- Bhojpur, under the Guardianship of his father Ram Janam Singh @ Anuj Kumar

... .. Petitioner/s

Versus

1. The State of Bihar
2. Dinesh Paswan S/o Late Raj Kumar Paswan R/o Mohalla- Sri Tola, Ward No. 36, P.S.- Ara Nawada, District- Bhojpur at Ara (Bihar)

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Suraj Narain Yadav, Advocate
For the Respondent/s	:	Ms. Usha Kumari 1, APP

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 02.07.2022 passed by learned 1st Additional Sessions Judge, Bhojpur, Ara in Criminal Appeal No. 14 of 2022 by which the learned Court refused to enlarge the petitioner on bail in connection with J.J.B. Case No.1118 of 2021/87 of 2020 arising out of Ara Nawada P.S. Case No. 1068 of 2021 registered for offence under Sections 302 and 34 of the Indian Penal Code and under Section 3(2)(5) of the SC/ST Act.

The petitioner/revisionist, aged about 17 years 04



month and 23 days on the alleged date of occurrence i.e. 07.11.2021, is not named in F.I.R., and is in custody/observation home since 01.12.2021.

The allegation against this petitioner is to cause death of the nephew of the informant, along with other co-accused persons.

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, Sandeep Kumar and Raushan Kumar, where nothing incriminating surfaced during the course of investigation, which may connect this petitioner/revisionist with present set of occurrence. It is also submitted that alleged illicit liquor was recovered from the house, which is occupied by other family members of this petitioner, where search was made without compliance of Section 100(4) of the Cr.P.C. and, as such, it can be safely gathered that recovery of clothes and illicit liquor were not made from the conscious physical possession of this petitioner. It is further pointed that even, as per the confessional statement of co-accused persons, this petitioner/revisionist not appears actively participated in this occurrence and as main co-accused



persons changes their clothes in the house of petitioner/revisionist, he was implicated in this case. It is also submitted that similarly situated co-accused person, namely, Vinit Kumar@Golu@Vindi has already been granted bail by this Hon'ble Court through Cr. App. (SJ) No. 961 of 2022 vide order dated 04.08.2022. 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 04 months and 23 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 Special Judge-cum-1st Additional Sessions Judge, Bhojpur, Ara/concerned Court in connection with Ara Nawada P.S. Case No. 1068 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.), Bhojpur, Ara, 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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