

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.610 of 2022

Arising Out of PS. Case No.-336 Year-2021 Thana- MADHUBANI TOWN District-
Madhubani

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XXX S/O VIJAY KANT MISHRA Resident of village- Bhacchi, P.S.- Town,
District- Madhubani. under Guardianship of Vijay Kant Mishra aged about 49
years son of Kameshwar Mishra, Resident of Village- Bhacchi, P.S.- Town,
District- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar BIHAR

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Gagan Deo Yadav, Advocate Mr.Ravi Prakash, Advocate Mr.Rajesh Kumar, Advocate
For the Respondent/s	:	Mr.APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 16-01-2023 Heard learned counsel appearing on behalf of the
petitioner/revisionist.

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

The present revision application is being preferred
against judgement dated 30.06.2022 passed by learned 1st
Additional Sessions Judge, Madhubani in Criminal Appeal No.
06 of 2022 by which the learned Court refused to enlarge the
petitioner on bail in connection with Town P.S. Case No. 336 of
2021 (G.R. No. 1882 of 2021) registered for offence under
Section 392 of the Indian Penal Code.



The petitioner/revisionist, aged about 17 years 01 months and 21 days on the alleged date of occurrence i.e. 23.10.2021, is not named in F.I.R., and is in custody/observation home since 26.10.2021.

The allegation against the revisionist/petitioner is to commit robbery, along with other co-accused persons, and while committing so, taken away one motorcycle, one gold chain and Rs. 7000/- (Seven Thousand Rupee) belongs to informant.

It is submitted by learned counsel appearing on behalf of the petitioner/revisionist 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, namely, Sonu Kumar, in furtherance thereof no incriminating material recovered/surfaced which may incriminate to the revisionist/petitioner with the present set of occurrence/robbery. It is further submitted that co-accused person, namely, Kanahiya Bharadwaj, from which alleged motorcycle was recovered, has already been granted bail by one of the learned Co-ordinate Bench of this Court through Cr. Misc. No. 26201 of 2022 vide order dated 18.08.2022. It is also submitted that alleged recovered articles from the possession of this petitioner i.e. golden mobile with sim and purse belongs to this petitioner.



Learned APP, while opposing the prayer of bail, fairly conceded that petitioner is not named in the FIR.

Having regard to the submission and materials showing that the petitioner has been adjudged juvenile aged about 17 years 01 months and 21 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 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 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/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 J.J. Board, Madhubani/concerned Court in connection with Town P.S. Case No. 336 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.), Madhubani, 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)

R.S.Sen/-

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