

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.608 of 2022

Arising Out of PS. Case No.-863 Year-2021 Thana- SAHARSA SADAR District- Saharsa

XXXX Under the Guardianship and Son of Sanjiv Kumar Singh @ Sanjit Singh R/V- Khara Budhma, P.S- Uda Kishanganj, Dist- Madhepura, Present residing at 477 Laxmi Niwas, Gangjala South of Ishlamiya Chowk ward No. 16, P.O and P.S- Saharsa, Dist- Saharsa

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Jainendra Kumar Pushkar, Advocate

For the Respondent/s : Mr. Yogendra Kumar Singh, 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.

Learned counsel appearing on behalf of the petitioner/revisionist is directed to remove the defects, as pointed out by the office within a period of two weeks.

The present revision application is being preferred against judgement dated 22.07.2022 passed by learned Additional Session Judge First-cum-Special Judge Children's Court, Saharsa, in Criminal Appeal No. 27 of 2022 as well as order dated 12.05.2022 passed by the Principal Magistrate Juvenile Justice Board Saharsa, in J.J.B. No. 77 of 2022 in connection with Saharsa P.S. Case No. 863 of 2021, dated



14.11.2021 registered for offences alleged under Sections 307, 120(B), 506, 302 and 34 of the Indian Penal Code (I.P.C.) and under Section 27 of the Arms Act, whereby and whereunder the prayer for regular bail of the petitioner was rejected, without considering the facts and circumstances of the case as well as without assigning any cogent reason for the same.

The petitioner/revisionist, aged about 16 years 08 month and 28 days on the alleged date of occurrence i.e. 14.11.2021, is not named in F.I.R., and is in custody/observation home since 18.11.2021.

The allegation against petitioner is to commit murder of the informant, along with other co-accused persons, by causing fire arm injuries.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that petitioner/revisionist apprehended in Saharsa Sadar P.S. Case No. 863 of 2021, which was registered for the offences alleged for Arms Act, where on the basis of self-confession, the petitioner/revisionist remanded in present case. It is further submitted that no incriminating material recovered/surfaced on the basis of self-confession of the petitioner/revisionist, which may connect him with present set of occurrence. It is also submitted that no TIP was conducted



despite of all opportunities to conduct the same and moreover, both named accused persons, namely, Sunil Kumar Agarwal and Sangita Agarwal, who were named in F.I.R., have already been granted bail by one of the learned Co-ordinate Bench of this Court through Cr. Misc. No. 14994 of 2022 vide order dated 12.09.2022 and Cr. Misc. No. 15802 of 2022 vide order dated 22.09.2022 respectively.

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 16 years 08 months and 28 days approximately on the alleged date of occurrence, no active participation of the



petitioner has been alleged 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 Principal Magistrate Juvenile Justice Board (J.J.B.), Saharsa in connection with Saharsa Sadar P.S. Case No. 863 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.), Saharsa, 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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