

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.639 of 2022

Arising Out of PS. Case No.-1 Year-2022 Thana- KHAJANCHI HAT District- Purnia

X9

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ram Prawesh Kumar, Advocate
For the Respondent/s : Mr.Shantanu Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 02-02-2023 Heard learned counsel appearing on behalf of the petitioner/revisionist and learned APP appearing on behalf of the State.

Though the petitioner has given full description in the application, it would be inappropriate to disclose his identity in view of the statutory provisions prescribed under Section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short 'the Act of 2015'). He is being referred to in the cause title as X9.

Registry while uploading the order on the website shall also ensure that the cause title is reflected in similar manner.



The present revision application is being preferred against order dated 16.08.2022 passed in Cr. Appeal No. 21 of 2022, CIS no. 21 of 2022 passed by the learned 1st Additional Session Judge-cum-Spl. Judge, Purnea and order dated 10.06.2022 passed in G.R. No. 06 of 2022 arising out of K. Hat (Maranga) P.S. Case No. 01 of 2022 passed by learned Juvenile Justice Board, Purnea, whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, aged about 16 years 09 months 14 days on the alleged date of occurrence, is not named in F.I.R., and is in custody/observation home since 22.02.2022.

The allegation against revisionist/petitioner is to commit murder of son of the informant alongwith other co-accused persons due to previous enmity.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that petitioner is not named in this FIR and his name has surfaced in this case only on the basis of confessional statement of co-accused, namely, Aayush Kumar alias Saurab Kumar, in furtherance of which, no incriminating material has been surfaced which may connect this revisionist/petitioner with present occurrence of the murder. It is



also submitted that said co-accused, namely, Aayush Kumar alias Saurab Kumar has already been granted bail by one of the learned Co-ordinate Bench of this Hon'ble Court vide order dated 10.11.2022 passed in Cr. Misc. No. 23979 of 2022. It is further submitted that revisionist/petitioner is a man of clean antecedent. While concluding the argument, it is submitted that alleged recovered, cash of Rs. 20,000/- belongs to this revisionist/petitioner and same cannot connect petitioner with occurrence, in want of any details and denominations. It is further submitted that nothing adverse can be gathered from the Social Investigation Report (SIR) of the revisionist/petitioner, which may suggest that petitioner cannot brought into the mainstream of society.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that mother of the juvenile petitioner, is ready to stand as a surety and furnish an undertaking that she will take proper 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 and groom him as a good and law abiding citizen.

Learned APP, while opposing the prayer of bail fairly



conceded that revisionist/petitioner is not named in the FIR.

Having regard to the submissions advanced as above, and materials showing that the petitioner has been adjudged juvenile aged about 16 years 09 months 14 days approximately on the alleged date of occurrence, 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 about two years and his mother is ready to stand as a surety and furnish an undertaking that if released on bail she 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, she 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 psychological danger; and

(iii) The release would defeat the ends of justice.”

Accordingly, the impugned order dated 16.08.2022 passed in Cr. Appeal No. 21 of 2022, CIS no. 21 of 2022 passed by the learned 1st Additional Session Judge-cum-Spl. Judge, Purnea is set aside. Consequently, order dated 10.06.2022 passed in G.R. No. 06 of 2022 arising out of K. Hat (Maranga) P.S. Case No. 01 of 2022 passed by learned Juvenile Justice Board, Purnea, is also set aside.

The petitioner is directed to be released 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 Juvenile Justice Board, Purnea.

One of the sureties should be the mother of the petitioner and she 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.), Purnea, regarding conduct of the pe-



itioner. If found anything adverse against this petitioner, the same will also be reported to the Board for necessary action.

(Chandra Shekhar Jha, J)

veena/-

U			
---	--	--	--

