

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.647 of 2022

Arising Out of PS. Case No.-304 Year-2021 Thana- SABAUR District- Bhagalpur

XXXX S/o Sri Sunil Yadav Resident Of Village- Sultanpur Bhatti, P.O. And
P.S.- Sabour, District- Bhagalpur.

... .. Petitioner/S

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Bidhanesh Misra, Advocate Ms. Tanuja Kumari Mishra, Advocate
For the Respondent/s	:	Mr.Rajendra Prasad Nat, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 19-01-2023 Heard learned counsel appearing on behalf of the revisionist/petitioner and learned APP appearing on behalf of the State.

The present revision application is being preferred against order dated 11.04.2022 passed in Cr. Appeal No. 10 of 2022 by the Court of learned Additional Sessions Judge-1-cum-Special Judge (Children Court), Bhagalpur, and in Sabour P.S. Case No. 304/2021 (N.D.P.S. Case No. 77/21) by Juvenile Justice Board, whereby and whereunder the learned Court has rejected the prayer for bail of the revisionist/petitioner.

The revisionist/petitioner, aged about 17 years 06 months 27 days on the alleged date of occurrence, is named in F.I.R., and is in custody/observation home since 28.11.2021.



The allegation against revisionist/petitioner is to have in possession of 01 gram of Heroin and also alleged thereof that revisionist/petitioner habitually engaged in dealing of stolen property.

Learned counsel appearing on behalf of the revisionist/petitioner submitted that save and except 01 gram of Brown Sugar/Heroin wrapped in silver foil, nothing has been recovered from the possession of revisionist/petitioner. It is further submitted that recovered quantity of Narcotic substance is less than smaller quantity, and as such, there is no question with regard to compliance of Section 37 of the N.D.P.S. Act. It is further submitted that the compliance of Section 50 of the N.D.P.S. Act with regard to search upon persons was also not complied with in present case. in It is further submitted that revisionist/petitioner is a man of clean antecedent and moreover, no adverse report has been found against this revisionist/petitioner, as per his Social Investigation Report (S.I.R.), which also suggest non-involvement of revisionist/petitioner in present occurrence, on its face.

Learned counsel appearing on behalf of the revisionist/petitioner 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 revisionist/petitioner 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 also grow him as a good and law abiding citizen.

Learned APP appearing on behalf of the State, while opposing the prayer of bail, fairly conceded that recovered amount of Narcotic is less than smaller quantity.

Having regard to the submissions advanced as above, and materials showing that the petitioner has been adjudged juvenile aged about 17 years 06 months 27 days approximately on the alleged date of occurrence, 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 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 excep-



tions 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 J.J. Board, Bhagalpur, in Sabour P.S. Case No. 304/2021, (N.D.P.S. Case No. 77/21).

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.), Bhagalpur, 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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