

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.648 of 2022

Arising Out of PS. Case No.-163 Year-2022 Thana- MANER District- Patna

X3

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Ms. Shweta Kumari, Advocate

For the Respondent/s : Mr.Nityanand, 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 X3.

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 27.08.2022 passed by learned Addl. District



and Sessions Judge-Cum-Special Judge, J.J. Act and order dated 27.06.2022 passed by learned J.J. Board, Patna, whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, aged about 17 years 05 months 04 days on the alleged date of occurrence, is named in F.I.R., and is in custody/observation home since 07.03.2022.

The allegation against revisionist/petitioner is to engage in illegal activities of illicit liquor, where total of 521.4 litres of Indian made foreign liquor alleged to be recovered from the possession of this revisionist/petitioner.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that petitioner is neither owner nor driver of the vehicle from where illicit liquor alleged to be recovered. It is also submitted that petitioner was merely standing nearby of alleged vehicle and due to misconception of the fact, he was implicated in present case. It is further pointed out that seizure list is not supported by the independent witnesses, rather by police personnel, making it doubtful. While concluding the argument, it is submitted that similarly situated co-accused persons have already been granted bail by one of the co-ordinate Bench of this Court vide order dated 27.08.2022 passed



in Cr. Misc. No. 41299 of 2022 and vide order dated 10.11.2022 passed in Cr. Misc. No. 41299 of 2022. It is further submitted that petitioner is a man of clean antecedent and moreover, no adverse material can be gathered from his Social Investigation Report (SIR), as to suggest that petitioner cannot join the mainstream of society.

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 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 seizure list is not supported by independent witness.

Having regard to the submissions advanced as above, and materials showing that the petitioner has been adjudged juvenile aged about 17 years 05 months 04 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 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 psychological danger; and

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

Accordingly, the impugned order dated 27.08.2022 passed by learned Addl. District and Sessions Judge-Cum-Special Judge, J.J. Act, is set aside. Consequently, the order dated



27.06.2022 passed by Learned J.J. Board, Patna, 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 J.J. Board, Patna.

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 Learned J.J. Board, Patna, 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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