

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.674 of 2022

Arising Out of PS. Case No.-1 Year-2022 Thana- RUNISAIDPUR District- Sitamarhi

XYZ

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Virendra Kumar, Advocate

For the Respondent/s : Mr. Pushpa Sinha.1, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 03-02-2023 Heard learned counsel appearing on behalf of the petitioner/revisionist through virtual court proceedings.

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 XYZ.

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 impugned order dated 29.07.2022 passed by learned 1st Additional Sessions Judge-cum-Special Judge, Children's Court,



Sitamarhi in Criminal Appeal No. 39 of 2022 and order dated 16.06.2022 passed by the Learned Principal Magistrate, Juvenile Justice Board, Sitamarhi in J.J.B. Case No. 1457 of 2022 (arising out of Runnisaidpur P.S. Case No. 01 of 2022 which was registered for offences under Sections 25(1-b)a, 26 and 35 of the Arms Act and under Section 37(b)&(c) of the Bihar Prohibition and Excise Act, whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, aged about 16 years 11 months and 30 days on the alleged date of occurrence i.e. 31.12.2021, is named in F.I.R., and is in custody/observation home since 02.01.2022.

The allegation against petitioner/revisionist is to have in possession of one empty country made pistol.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that the petitioner/revisionist falsely implicated in this case due to local disputes and differences. It is also submitted that arrest of petitioner/revisionist was made by private persons. It is also submitted that petitioner/revisionist found involved in two more criminal cases, where his name surfaced, during the course of



investigation, on the basis of confessional statement, as initially both F.I.R. were lodged against unknown persons. It is submitted that as per Social Investigation Report of petitioner/revisionist, which is the part of impugned order, it cannot be gathered that petitioner/revisionist cannot be brought into mainstream of society.

Learned APP appearing on behalf of the State while opposing the prayer of bail fairly conceded the fact that the arrest of petitioner/revisionist was made by private persons, as per F.I.R. itself.

In view of the facts and circumstance and by taking note of nature of allegation, where, petitioner/revisionist has been adjudged juvenile aged about 16 years 11 months and 30 days on the alleged date of occurrence and the social investigation report of the petitioner/revisionist 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 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/revisionist and shall ensure that he does not fall in bad company and, in case, the petitioner/revisionist 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, the impugned order dated 29.07.2022 passed in Criminal Appeal No. 39 of 2022 by the Court of learned 1st Additional Sessions Judge-cum-Special Judge, (Children's Court), Sitamarhi is set-aside. Consequently, the order dated 16.06.2022 passed in J.J.B. Case No. 1457 of 2022



(arising out of Runnisaipur P.S. Case No. 01 of 2022) by the learned Principal Magistrate, Juvenile Justice Board, Sitamarhi, is also set-aside.

The petitioner/revisionist 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 Principal Magistrate, Juvenile Justice Board, Sitamarhi/concerned Court in connection with in connection with J.J.B. Case No. 1457 of 2022 (arising out of Runnisaipur P.S. Case No. 01 of 2022).

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.), Sitamarhi, 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)

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