

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.655 of 2022

Arising Out of PS. Case No.-62 Year-2022 Thana- NATHNAGAR District- Bhagalpur

XYZ

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Ranjan Kumar Jha, Advocate
For the Respondent/s : Dr.Mrityunjaya Kr.Gautam, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

4 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 11.08.2022 passed by learned 1st Additional Sessions Judge-cum-Special Judge, Children's Court,



Bhagalpur in Special Case (Children) No. 14 of 2022, arising out of Nathnagar (Lalmatia) P.S. Case No. 62 of 2022 which was registered for offences under Sections 302 and 34 of the Indian Penal Code and under Section 27 of the Arms Act, whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, aged about 17 years 03 months and 18 days on the alleged date of occurrence, is not named in F.I.R., and is in custody/observation home since 26.05.2022.

The allegation against petitioner/revisionist is to commit murder of brother of the informant alongwith other named co-accused persons, due to money related dispute.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that the name of petitioner/revisionist surfaced on the basis of confessional statement of co-accused, namely, Suman Yadav, where nothing incriminating surfaced during the course of investigation which may suggest that involvement of petitioner/revisionist in present occurrence of murder. It is also pointed out that co-accused, namely, Rajiv Kumar@Rajiv Yadav has already been granted bail by facing similar allegation through Cr. Misc. 33334 of



2022 vide order dated 20.12.2022. It is submitted that petitioner/revisionist is a man of clean antecedent and nothing adverse can be gathered from his Social Investigation Report.

Learned APP appearing on behalf of the State while opposing the prayer of bail fairly submitted that petitioner/revisionist is not named in F.I.R.

In view of the facts and circumstance and by taking note of nature of allegation, where, petitioner/revisionist has been adjudged juvenile aged about 17 years 03 months and 18 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 11.08.2022 passed by the Court of learned 1st Additional Sessions Judge-cum-Special Judge, (Children's Court), Bhagalpur is set-aside. Consequently, Special Case (Children) No. 14 of 2022 (arising out of Nathnagar (Lalmatia) P.S. Case No. 62 of 2022) passed by the learned Principal Magistrate, Juvenile Justice Board, Bhagalpur, 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, Bhagalpur/concerned Court in connection with Special Case (Children) No. 14 of 2022 (arising out of Nathnagar (Lalmatia) P.S. Case No. 62 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.), Bhagalpur, 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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