

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.672 of 2022

Arising Out of PS. Case No.-14 Year-2022 Thana- TANDWA District- Aurangabad

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XXXX Son of Nandu Vishwakarma @ Nandu Mistri Resident of Kandi Bigha, P.S- Tandwa, dist- Aurangabad, Bihar through His Elder brother Mithilesh Kumar, Son of Nandu Vishwakarma @ Nandu Mistri, Resident of Kandi Bigha, P.S- Tandwa, Dist- aurangabad , bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL REVISION No. 838 of 2022

Arising Out of PS. Case No.-14 Year-2022 Thana- TANDWA District- Aurangabad

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XXXX Son of Gorakh Vishwakarma @ Satyadev Vishwakarma @ Satydev Vishwakarma Resident of Kandi Bigha, Kandi, P.S.- Tandwa, District- Aurangabad, Bihar through His mrother Sunita Devi, Wife of Gorakh Vishwakarma @ Satyadev Vishwakarma @ Satydev Vishwakarma, Resident of Kandi Bigha, Kandi, P.S.- Tandwa, District- Aurangabad, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL REVISION No. 879 of 2022

Arising Out of PS. Case No.-14 Year-2022 Thana- TANDWA District- Aurangabad

=====

XXXX S/O Isawari Mistry @ Ishwari Mistry @ Ishwari Vishwakarma R/O Village- Kandi @ Kandi Bigha, P.S- Tandawa, District- Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

(In CRIMINAL REVISION No. 672 of 2022)

For the Petitioner/s : Mr. Pramendra Kumar Singh, Advocate



For the Respondent/s : Mr. Amitesh Kumar, APP
(In CRIMINAL REVISION No. 838 of 2022)
For the Petitioner/s : Mr. Pramendra Kumar Singh, Advocate
For the Respondent/s : Md. Ataur Rahman, APP
(In CRIMINAL REVISION No. 879 of 2022)
For the Petitioner/s : Mr. Santosh Kumar Pandey, Advocate
For the Respondent/s : Mr. Umanath Mishra, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 30-01-2023 **Cr. Rev. No. 672 of 2022**

Heard learned counsel appearing on behalf of the petitioner and learned APP appearing on behalf of the State.

The present revision application is being preferred against order dated 29.07.2022 passed by learned First Additional and Sessions Judge, Aurangabad in Criminal Appeal No. 10 of 2022 arising out of Tandwa P.S. Case No. 14 of 2022, corresponding J.J.B. No. 768 of 2022, registered for offences punishable under Sections 147, 148, 149, 323, 324, 307, 302 and 379 of the Indian Penal Code (I.P.C.).

The petitioner/revisionist, aged about 15 years 11 months and 06 days on the alleged date of occurrence i.e. 07.02.2022, is named in F.I.R., and is in custody/observation home since 11.02.2022.

The allegation against petitioner is to commit murder of the father of the informant, along with other co-accused persons, by making assault collectively on his head, due to previous enmities arises out of neighbourhood disputes and



differences.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that the occurrence is free fight in nature where both parties received injury and, as such, it cannot be said that the petitioner was under intention to cause death of the father of the informant. It is submitted that similarly situated co-accused person, namely, Nandu Vishwakarma has already been granted bail by this Hon'ble Court through Cr. Misc. No. 23251 of 2022 vide order dated 27.07.2022. It is submitted that no reason was given by learned Trial Court, regarding apprehension for petitioner to go in association of other such persons, who made compel the petitioner to wrong path, whereas, no such apprehension was raised through S.I.R. (Social Investigation Report). It is also submitted that petitioner/revisionist is a man of clean antecedent.

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 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.



Learned APP for the State has opposed the prayer for bail of the petitioner/revisionist. Learned APP has, however, not pointed out any adverse material from the Social Investigation Report.

Having regard to the submission and materials showing that the petitioner has been adjudged juvenile aged about 15 years 11 months and 06 days approximately on the alleged date of occurrence, no active participation of the petitioner has been alleged, 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 almost one year 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 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 Juvenile Justice Board (J.J.B.), Aurangabad in connection with Tandwa P.S. Case No. 14 of 2022.

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.), Aurangabad, regarding conduct



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

Cr. Rev. No. 838 of 2022

Heard learned counsel appearing on behalf of the petitioner and learned APP appearing on behalf of the State.

The present revision application is being preferred against order dated 03.11.2022 passed by learned First Additional District and Sessions Judge, Aurangabad in Criminal Appeal No. 39 of 2022 arising out of Tandwa P.S. Case No. 14 of 2022, corresponding G.R. No. 247 of 2022 and J.J.B. No. 789 of 2022, registered for offences punishable under Sections 147, 148, 149, 323, 324, 307, 302 and 379 of the Indian Penal Code (I.P.C.).

The petitioner/revisionist, aged about 15 years 11 months and 21 days on the alleged date of occurrence i.e. 07.02.2022, is named in F.I.R., and is in custody/observation home since 03.08.2022.

The allegation against petitioner is to commit murder of the father of the informant, along with other co-accused persons, by making assault collectively on his head, due to



previous enmities arises out of neighbourhood disputes and differences.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that the occurrence is free fight in nature where both parties received injury and, as such, it cannot be said that the petitioner was under intention to cause death of the father of the informant. It is submitted that similarly situated co-accused person, namely, Nandu Vishwakarma has already been granted bail by this Hon'ble Court through Cr. Misc. No. 23251 of 2022 vide order dated 27.07.2022. It is submitted that no reason was given by learned Trial Court, regarding apprehension for petitioner to go in association of other such persons, who made compel the petitioner to wrong path, whereas, no such apprehension was raised through S.I.R. (Social Investigation Report). It is also submitted that petitioner/revisionist is a man of clean antecedent.

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 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.

Learned APP for the State has opposed the prayer for bail of the petitioner/revisionist. Learned APP has, however, not pointed out any adverse material from the Social Investigation Report.

Having regard to the submission and materials showing that the petitioner has been adjudged juvenile aged about 15 years 11 months and 21 days approximately on the alleged date of occurrence, no active participation of the petitioner has been alleged, 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 almost six months 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:-

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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.), Aurangabad, regarding conduct of the petitioner. If found anything adverse against this petitioner, the same will also be reported to the Board for necessary action.

Cr. Rev. No. 879 of 2022

Heard learned counsel appearing on behalf of the petitioner and learned APP appearing on behalf of the State.

The present revision application is being preferred against order dated 03.11.2022 passed by learned First Additional District and Sessions Judge, Aurangabad in Criminal Appeal No. 40 of 2022 arising out of Tandwa P.S. Case No. 14 of 2022, corresponding J.J.B. No. 794 of 2022, registered for offences punishable under Sections 147, 148, 149, 323, 324, 307, 302 and 379 of the Indian Penal Code (I.P.C.).

The petitioner/revisionist, aged about 17 years 04 months and 25 days on the alleged date of occurrence i.e. 07.02.2022, is named in F.I.R., and is in custody/observation home since 03.08.2022.

The allegation against petitioner is to commit murder of the father of the informant, along with other co-accused persons, by making assault collectively on his head, due to previous enmities arises out of neighbourhood disputes and



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Learned counsel appearing on behalf of the petitioner/revisionist submitted that the occurrence is free fight in nature where both parties received injury and, as such, it cannot be said that the petitioner was under intention to cause death of the father of the informant. It is submitted that similarly situated co-accused person, namely, Nandu Vishwakarma has already been granted bail by this Hon'ble Court through Cr. Misc. No. 23251 of 2022 vide order dated 27.07.2022. It is submitted that no reason was given by learned Trial Court, regarding apprehension for petitioner to go in association of other such persons, who made compel the petitioner to wrong path, whereas, no such apprehension was raised through S.I.R. (Social Investigation Report). It is also submitted that petitioner/revisionist is a man of clean antecedent.

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Learned APP for the State has opposed the prayer for bail of the petitioner/revisionist. Learned APP has, however, not pointed out any adverse material from the Social Investigation Report.

Having regard to the submission and materials showing that the petitioner has been adjudged juvenile aged about 17 years 04 months and 25 days approximately on the alleged date of occurrence, no active participation of the petitioner has been alleged, 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 almost six months 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**



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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 Juvenile Justice Board (J.J.B.), Aurangabad in connection with Tandwa P.S. Case No. 14 of 2022.

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.), Aurangabad, 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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