

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.671 of 2022

Arising Out of PS. Case No.-1 Year-2022 Thana- GADHPURA District- Begusarai

Chhotkan @ Chhotu @ Chhotu Kumar Minor Son of Surendra Yadav
Through his father natural guardian Surendra Yadav aged about 52, Son of
Bunilal Yadav both R/V- Ward No. 8, Sakara, P.S- Garhpura, Dist- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

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

For the Respondent/s : Mr. Ajay Kumar Jha, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 10-01-2023 Heard learned counsel appearing on behalf of the

petitioner and learned APP appearing on behalf of the State

through virtual court proceedings.

The present revision application is being preferred
against judgment dated 26.07.2022 passed by learned Additional
Sessions Judge-I-cum-P.O. Children Court, Begusarai, in
Criminal Appeal No. 37 of 2022 by which the learned Court
refused to enlarge the petitioner on bail in connection with J.J.B.
Case No.135 of 2022 arising out of Garhpura P.S. Case No. 01
of 2022 registered for offence under Section 392 of the Indian
Penal Code.

The petitioner/revisionist, aged about 15 years 07
month and 14 days on the alleged date of occurrence i.e.



02.01.2022, is not named in F.I.R., and is in custody/observation home since 03.04.2022.

The allegation against this petitioner is to commit robbery alongwith other co-accused persons and while committing so took away cash worth Rs.91,700/- (Rupees Ninty One Thousand and Seven Hundred), one biometric device and mobile belonging to informant.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that petitioner was juvenile on the date of occurrence, aged about 15 years 7 months and 14 days. It is submitted that the name of petitioner surfaced on the basis of confessional statement of co-accused namely Rakesh Kumar, where nothing surfaced during the course of investigation, which may incriminate this revisionist with present occurrence of robbery. It is also pointed out that said co-accused namely Rakesh Kumar has already been granted bail by one of the learned Co-ordinate Bench of this Court through Cr. Misc. No. 34120 of 2022 vide order dated 12.09.2022. It is also submitted that petitioner completed his matriculation and for any further period in observation will badly affect his future. Learned counsel further submitted that petitioner was not put on TIP, to ascertain his involvement in alleged occurrence.



Learned APP for the State, while opposing the prayer for bail, submitted that social investigation report available is suggesting that petitioner/revisionist was involved in organised crime and fairly conceded that the name of revisionist/petitioner surfaced on the basis of confessional statement of co-accused, where no recovery appears to be made from this revisionist/petitioner during the course of investigation.

Having regard to the submission and materials showing that the petitioner has been adjudged juvenile aged about 15 years 07 months and 14 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 more than 09 months and his father/mother 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 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/revisionist 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 Judicial Magistrate Juvenile Justice Board, Begusarai/concerned Court in connection with Garhpura 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.), Begusarai, regarding conduct of the petitioner. 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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