

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.680 of 2022

Arising Out of PS. Case No.-42 Year-2020 Thana- PAWANA District- Bhojpur

X1

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

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

For the Respondent/s : Mr.Choubey Jawahar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 10-02-2023 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 X1.

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 01.07.2022 passed by the learned 1st



Additional Sessions Judge, Bhojpur at Ara, in Cr. Appeal No. 66 of 2021 and order dated 27.08.2021 passed by the learned Juvenile Justice Board, Bhojpur, Ara in J.J. Board Case No. 949 of 2021 (arising out of Pawana P.S. Case No. 42 of 2020), whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, adjudged as a juvenile on the date of occurrence, where his age was assessed as 16 years 07 months 21 days, named in F.I.R., and is in custody/observation home since 26.06.2021.

Allegation against revisionist/petitioner is to fire upon the injured/deceased, causing firearm injury due to previous enmities.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that prior to firing by this petitioner, which caused fired injury on the non-vital part of the body of injured/deceased i.e. finger, gun shot was made on the vital part of the body by one of the co-accused, namely, Sanjay Yadav, which proves fatal, causing death of deceased. It is also submitted that having had intention to cause death, there was no occasion to cause injury on non-vital part of the body, despite of availability of injured/deceased within close range. It is also



submitted that revisionist/petitioner is a man of clean antecedent and moreover, nothing can be gathered adverse from his Social Investigation Report (SIR). It is also submitted that as per Social Investigation Report (SIR), education of the revisionist/petitioner appears required to be continued, in the best interest of child.

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 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 in future.

Learned APP, while opposing the prayer of bail, fairly conceded that the firearm injury caused by this petitioner/revisionist is on the non-vital part of the body.

Having regard to the submissions advanced as above, and materials showing that the petitioner has been adjudged juvenile aged about 16 years 07 months 21 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 and half years 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 psychological danger; and

(iii) The release would defeat the



ends of justice.”

Accordingly, the impugned order dated 01.07.2022 passed by the learned 1st Additional Sessions Judge, Bhojpur at Ara, in Cr. Appeal No. 66 of 2021 is set aside. Consequently, order dated 27.08.2021 passed by the learned Juvenile Justice Board, Bhojpur, Ara in J.J. Board Case No. 949 of 2021 (arising out of Pawana P.S. Case No. 42 of 2020) is also set aside.

In view of above facts and circumstances and by taking note of the accusation that petitioner adjudged as juvenile on the date of occurrence, 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 Juvenile Justice Board, Bhojpur, Ara in J.J. Board Case No. 949 of 2021 (arising out of Pawana P.S. Case No. 42 of 2020).

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.), Bhojpur, Ara, 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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