

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.616 of 2023

Arising Out of PS. Case No.-558 Year-2022 Thana- BARUN District- Aurangabad

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XXX, Son Of Butan Yadav @ Mithilesh Singh Resident Of Village- Baghaha,
Ps- Barun Dist- Aurangabad Bihar Under The Guardianship Of His Father
Butan Yadav @ Mithilesh Singh Aged About 41 Years Son Of Baldev Singh,
Resident Of Village- Baghaha, Ps- Barun , Distt- Aurangabad

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

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

For the Respondent/s : Mr. Akhileshwar Dayal, APP

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 30-11-2023 Heard learned counsel for the petitioner and learned

APP for the State.

2. Petitioner in the present case is seeking setting
aside of the order dated 28.07.2023 passed by learned
Children Court-cum-1st Additional District and Sessions
Judge, Aurangabad in Cr. Appeal No.30/2023 whereby and
whereunder the learned court has been pleased to affirm the
order dated 15.04.2023 passed by learned Juvenile Justice
Board, Aurangabad in JJB Case No.794/2023 arising out of
Barun P.S. Case No.558/2022 registered for the offence under
Section 302/34 of the Indian Penal Code by which the prayer
for bail of the petitioner has been rejected. He has no criminal

history.

3. As per the prosecution story, the petitioner and the co-accused are alleged to have committed murder of the informant's husband.

4. Learned counsel for the petitioner submits that the petitioner has been adjudged juvenile aged about 16 years 11 months on the alleged date of occurrence. There is no specific allegation against him of committing the offence, the allegations are vague and omnibus and the petitioner has not been seen by any eye witness.

5. Learned counsel further submits that similarly situated co-accused have been granted regular bail by this Court vide Cr.Misc. No.21315 of 2023 and Cr.Misc. No.31056 of 2023. Copy of the orders have been enclosed as Annexure- '2' series to this application.

6. Learned counsel further submits that if released on bail the father of the petitioner is ready to furnish an undertaking that he will not allow the petitioner to fall in bad company. The social investigation report and social background report of the petitioner are said to be normal.

7. Mr. Akhileshwar Dayal, learned APP for the State has, after going through the social investigation report of the

petitioner, submitted that there is no adverse report and it has transpired that he seems to have been falsely implicated.

8. Having regard to the facts and circumstances of the case and the submissions noted hereinabove 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. versus 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 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.”

this Court sets aside the impugned order and directs release of the petitioner above named 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, Aurangabad in connection with Barun P.S. Case No.558 of 2022.

9. One of the bailors would be the father of the petitioner and he shall furnish an undertaking before the Board that after release of the petitioner from the observation home, he will not allow the petitioner to fall in bad company.

10. The Probation Officer attached to the court shall keep a vigil over the petitioner and in case the petitioner is found getting involved in any kind of offence, the same will be reported to the jurisdictional police station immediately by the father of the petitioner as well as the Probation Officer.

13. This application is allowed.

(Rajeev Ranjan Prasad, J)

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