

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.609 of 2023

Arising Out of PS. Case No.-296 Year-2022 Thana- JOKIHAT District- Araria

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XXX, Son Of Late Qutubuddin Resident Of Village - Kurshail Ward No.3, P.S. - Jokihat (O.P. Mahalgaon) District - Araria. Under Guardianship Of His Brother In-Law Abdul Wadood, Aged About 37 Years, Son Of Abdul Razzaque, Resident Of Village - Kurshail Ward No.3, P.S. - Jokihat (O.P. Mahalgaon) District - Araria.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjeet Choubey, Advocate
For the Respondent/s : Mr.Umesh Lal Verma, 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 17.07.2023 passed by learned Additional District and Sessions Judge 1st -cum-Special Judge, Children Court, Araria whereby and whereunder the learned court has been pleased to affirm the order dated 10.05.2023 passed by learned Juvenile Justice Board, Jokihat (Mahalgaon), Araria in J.J.B. No.22/2023 arising out of Jokihat (Mahalgaon) P.S. Case No.296/2022 registered for the offence under Section 302, 201 and 120(B)/34 of the Indian Penal Code by which the prayer for bail of the petitioner has

been refused.

3. As per the prosecution story, when the informant's elder brother has not returned from his hardware shop, a search was made by his family members. During search, they found that after killing the informant's brother by slitting his throat, miscreants have thrown his dead body in a pit and his motorcycle and slipper were also scattered there.

4. Learned counsel for the petitioner submits that the petitioner is innocent and has been falsely implicated in this case merely on suspicion. Learned counsel submits that the petitioner has been involved in this case only with an intention to forcibly possess his land and this fact has transpired in course of preparation of the social investigation report.

5. Learned APP for the State has opposed the prayer for bail of the petitioner.

6. Having regard to the submission that the petitioner has been involved in this case only with an intention to forcibly possess his land and this fact has transpired in course of preparation of the social investigation report, further considering the information furnished to this Court by learned APP for the State that in the social

investigation report of the petitioner it is stated that he is a boy with cool mind and has been falsely implicated in this case and at this stage his father is ready to furnish an undertaking that if released on bail he shall not allow the petitioner to come in any bad company, 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 petitioners above named on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) each with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Jokihat

(Mahalgaon), Araria in connection with Jokihat (Mahalgaon)
P.S. Case No.296 of 2022.

7. 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 petitioners from the observation home, he shall not allow the petitioner to come in any bad company.

8. 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.

9. This application is allowed.

(Rajeev Ranjan Prasad, J)

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