

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.741 of 2022**

Arising Out of PS. Case No.-62 Year-2022 Thana- PRATAPGANJ District- Supaul

XXX.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Bijay Kumar Pathak, Advocate

For the Respondent/s : Mr. Sunil Kumar Pandey, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

2 03-02-2023 Heard learned counsel appearing on behalf of the petitioner/revisionist and learned APP appearing on behalf of the State through virtual Court proceedings.

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 XXX.

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 02.09.2022 passed in Cr. Appeal No. 13 of 2022 corresponding to Pratapganj P.S. Case No. 62 of 2022 by the learned IV Incharge Additional Sessions Judgen I -cum-Special



Judge Children's Court, Supaul and order dated 06.08.202 of the Principal Magistrate, Supaul Passed in Pratapganj P.S. Case No. 62 of 2022, GR-258 of 2022, ER 79 of 2022, whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, adjudged as juvenile on the date of occurrence, where his age was assessed as 17 years 02 months and 15 days, is named in F.I.R., and is in custody/observation home since 06.05.2022.

The allegation against petitioner/revisionist is to open fire upon the informant along with other co-accused persons, while he was sitting in his shop and refused to pay Rs. 30,000/- to petitioner and other co-accused persons.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that the petitioner/revisionist was not apprehended on the spot and his name surfaced in present case on the basis of disclosure made by apprehended co-accused persons, namely, Prince Kumar and Ranjit Kumar, where nothing surfaced during the course of investigation to incriminate petitioner with present occurrence. It is further submitted that said co-accused, namely, Prince Kumar and Ranjit Kumar have already been granted bail by this Court through Cr. Misc. No. 36509/2022 vide order dated 16.09.2022 and Cr. Misc. No. 33118/2022 vide order



dated 16.09.2022, respectively. It is also pointed out that petitioner is a man of clean antecedent and moreover, S.I.R. (social investigation report), which is the part of impugned order itself, is not suggesting that petitioner/revisionist cannot be brought into the mainstream of the society.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that father of the juvenile petitioner, is ready to stand as a surety and furnish an undertaking that he 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.

Learned APP, while opposing the prayer of bail fairly conceded that revisionist/petitioner is not apprehended on spot.

Having regard to the submissions advanced as above, and materials showing that the petitioner has been adjudged juvenile aged about 17 years 02 months and 15 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 eight 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 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 02.09.2022 passed in Cr. Appeal No. 13 of 2022 corresponding to Pratapganj P.S. Case No. 62 of 2022 by the learned IV Incharge Additional Sessions Judge I-cum-Special Judge Children's Court, Supaul is set aside. Consequently, order dated 06.08.202 of the Principal



Magistrate, Supaul Passed in Pratapganj P.S. Case No. 62 of 2022, GR-258 of 2022, ER 79 of 2022, is also set aside.

In view of the above facts and circumstances, as petitioner assessing juvenile by the J.J.B., his age is about 17 years 02 months and 15 days, he 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 ADJ I-cum-Special Judge (Children Court) Supaul in connection with Pratapganj P.S. Case No. 62 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.), Supaul, 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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