

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.619 of 2023

Arising Out of PS. Case No.-340 Year-2022 Thana- KOCHADHAMAN District- Kishanganj

XXX, S/O Shankar Tanti R/O Village- Madanpur, Ps. Kajra, Dist. Lakhisarai,
Through His Under Guardianship Namely Shankar Tanti (M) Aged About 54
Years, S/O Vasudev Tanti, R/O Village- Madanpur, Ps. Kajra, Dist. Lakhisarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Parmanand Pd. Nr. Sahi, Advocate
For the Respondent/s : Ms.Sucheta Yadav, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 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 04.08.2023 passed by learned
Additional Sessions Judge-1st-cum-Special Judge,
Kishanganj in Cr. Appeal No.05/2023 whereby and
whereunder the learned court has been pleased to affirm the
order dated 01.05.2023 passed by learned Juvenile Justice
Board, Kishanganj in JJB Case No.6/2023 arising out of
Kochadhaman P.S. Case No.340 of 2022 registered for the
offence under Sections 8/20(b)(ii)B/22/23/29 of the N.D.P.S.
Act by which the prayer for bail of the petitioner has been
rejected. He has no criminal history.

3. As per the prosecution story, allegedly 7.620 kgs of Ganja were recovered from the possession of petitioner and other accused persons.

4. Learned counsel for the petitioner submits that the petitioner has been adjudged juvenile aged about 16 years 11 months 14 days on the alleged date of occurrence.

5. Learned counsel further submits that recovery of 7.620 kgs of Ganja has been made from a bag hidden under the seat of the bus. It is not from the conscious possession of the petitioner, however, he has been falsely implicated in this case. The quantity of Ganja is much less than the commercial quantity hence, the rigours of Section 37 of the N.D.P.S. Act would not apply.

6. Learned counsel further submits that there is no adverse report against the petitioner in the social background report and at this stage he may be allowed to be connected with his studies. His father is ready to furnish an undertaking that if released on bail the petitioner shall not be allowed to come in contact with bad elements.

7. Learned APP for the State has opposed the prayer for bail of the petitioner. It is submitted that the release of the petitioner is likely to expose him and he may come in contact

with the bad elements.

8. Having regard to the facts and circumstances of the case as recorded 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, Kishanganj in connection with Kochadhaman P.S. Case No.340 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.

11. This application is allowed.

(Rajeev Ranjan Prasad, J)

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