

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No.795 of 2022**

Arising Out of PS. Case No.-140 Year-2022 Thana- BUXAR INDUSTRIAL District- Buxar

XYZ

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

**Appearance :**

For the Petitioner/s : Mr. Anand Kumar Ojha, Advocate

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

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

2      04-02-2023                      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 XYZ.

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 impugned order dated 28.09.2022 passed by learned 1st



Additional Sessions Judge-cum-Special Judge, (SC/ST and Children's Court), Buxar in Criminal Appeal No. 55 of 2022 by which the appeal filed by the petitioner for grant of regular bail who has been made accused in Buxar Industrial P.S. Case No. 140 of 2022 which was registered for offences under Sections 302, 201 and 34 of the Indian Penal Code (for short 'I.P.C.'), whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist adjudged as juvenile under Section 94(1) of the J.J. Act Vide Case No. 828 of 2022 of J.J.B., Buxar dated 02.08.2022, where his age was assessed between 13-14 years, named in F.I.R., and is in custody/observation home since 14.07.2022.

The allegation against petitioner/revisionist is to commit murder of the son of informant alongwith other co-accused persons.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that informant is not the eye witness of the occurrence, where entire allegation is based upon suspicion as petitioner/revisionist, alongwith other co-accused persons, called son of the informant from the home for playing cricket. It is further submitted that nothing surfaced during the



course of investigation, which may connect petitioner/revisionist with present occurrence out of said suspicion. It is further pointed out that petitioner/revisionist is a man of clean antecedent and moreover, Social Investigation Report which is the part of impugned order itself is not suggesting anything adverse against this petitioner/revisionist.

Learned APP appearing on behalf of the State while opposing the prayer of bail fairly conceded the fact that the informant is not the eye witness of the occurrence.

In view of the facts and circumstance and by taking note of nature of allegation, where, petitioner/revisionist has been adjudged juvenile, having age between 13 to 14 years on the alleged date of occurrence and the social investigation report of the petitioner/revisionist is also 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 more than six months 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/revisionist and shall ensure that he does not fall in bad company and, in case, the petitioner/revisionist 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 physiological danger; and*

*(iii) The release would defeat the ends of justice.”*

Accordingly, the impugned order dated 28.09.2022 passed in Criminal Appeal No. 55 of 2022 by the Court of learned 1<sup>st</sup> Additional Sessions Judge-cum-Special Judge, (SC/ST and Children's Court), Buxar is set-aside.

The petitioner/revisionist 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, Buxar/concerned Court in connection with Buxar Industrial P.S. Case No. 140 of 2022.

One of the sureties should be the mother of the petitioner/revisionist 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.), Buxar, regarding conduct of the petitioner/revisionist. If found anything adverse against this petitioner/revisionist, the same will also be reported to the Board for necessary action.

**(Chandra Shekhar Jha, J)**

pooja/-

|   |  |   |  |
|---|--|---|--|
| U |  | T |  |
|---|--|---|--|

