

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.819 of 2022

Arising Out of PS. Case No.-247 Year-2022 Thana- RUNISAIDPUR District- Sitamarhi

XYZ

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Kumar Rajeev

For the Respondent/s : Mr.Dr. Indihar Kumari

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 03-02-2023 Heard learned counsel appearing on behalf of the parties 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 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 14.10.2022 passed by learned P.O. Children Court-cum-Additional District and Sessions Judge, I,



Sitamarhi in Criminal Appeal No. 50 of 2022 and order dated 25.07.2022 passed by the Learned Juvenile Justice Board, Sitamarhi in J.J.B. Case No. 1602 of 2022 (arising out of Runnisaidpur) P.S. Case No. 247 of 2022, whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, aged about 15 years and 24 days on the alleged date of occurrence i.e. 14.05.2022, is not named in F.I.R., and is in custody/observation home since 01.07.2022.

The allegation against this petitioner is to commit murder of son of the informant along with other named co-accused persons by making assault with iron rod on the head of the deceased/son of the informant.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that petitioner was not named in F.I.R., where his name surfaced during the course of investigation, first time during supervision of this case by Dy.S.P. Sitamarhi. It is further submitted that the name of petitioner appears as the driver of JCB, during supervision on the basis of input given by undisclosed persons, whereas the name of driver is apparent from the F.I.R. itself that it was Raj



Kumar Ram, who was the driver of the alleged JCB. It is also submitted that petitioner is a man of clean antecedent and moreover, no adverse report can be gathered from his S.I.R., as same is also mentioned in the impugned order. While concluding the argument, it has been submitted that main accused carrying specific allegation, as per F.I.R., namely, Aman Ray has already acquitted by learned Trial Court through Session Trial No. 462 of 2022 vide order dated 18.01.2023.

Learned APP appearing on behalf of the State, while opposing the prayer of bail fairly conceded the fact that petitioner was not named in the F.I.R.

In view of the facts and circumstance and by taking note of nature of allegation, where, petitioner/revisionist has been adjudged juvenile aged about 15 years and 24 days on the alleged date of occurrence, he has no criminal antecedent and the social investigation report of the petitioner 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 about $\frac{1}{2}$ year 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/revisionist and shall ensure that he does not fall



in bad company and, in case, the petitioner/revisionist 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 physiological danger; and

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

Accordingly, the impugned order dated 14.10.2022 passed in Criminal Appeal No. 50 of 2022 by the Court of learned P.O. Children Court-cum-Additional District and Sessions Judge, I, Sitamarhi, is set-aside. Consequently, the



order dated 25.07.2022 passed in J.J.B. Case No. 1602 of 2022 (arising out of Runnisaidpur) P.S. Case No. 247 of 2022 by the learned Juvenile Justice Board, Sitamarhi, is also 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 Principal Magistrate, Juvenile Justice Board, Sitamarhi/concerned Court in connection with J.J.B. Case No. 1602 of 2022 (arising out of Runnisaidpur) P.S. Case No. 247 of 2022.

One of the sureties should be the father of the petitioner/revisionist 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.), Sitamarhi 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)

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