

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.855 of 2022

Arising Out of PS. Case No.-286 Year-2021 Thana- SANGRAMPUR District- East
Champanan

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ABC

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Madhurendra Kumar, Advocate
For the Respondent/s	:	Mr.Md. Mushtaque Alam, APP
For the Informant	:	Mr. Kundan Rathaur, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 03-02-2023 Heard learned counsel appearing on behalf of the petitioner/revisionist, learned APP appearing on behalf of the State as well as learned counsel appearing on behalf of the informant through Virtual Court proceeding.

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 ABC.

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 18.10.2022 passed in Cr. Appeal No. 49 of 2022 corresponding to J.J.B. Tr. No. 1226 of 2022 arising out of Sangrampur P.S. Case No. 286 of 2021 by the learned 1st Additional Sessions Judge-cum-Special Judge Children's Court, East Champaran, Motihari and order dated 19.07.2022 passed by the learned Juvenile Justice Board, Motihari in connection with J.J.B. Tr. No. 1226 of 2022 arising out of Sangrampur P.S. Case No. 286 of 2021, 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 15 years 10 months 18 days, is not named in F.I.R., and is in custody/observation home since 22.02.2022.

As per FIR, a dead body was found by informant, where it appears during the course of investigation that murder was committed upon by the revisionist/petitioner alongwith other co-accused persons.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that the name of petitioner



surfaced on the basis of confessional statement of co-accused, namely, Saroj Kumar, where nothing surfaced during the course of investigation, which may connect this revisionist/petitioner with present occurrence. It is also submitted that even as per confessional statement, the revisionist/petitioner was named as associate and not as an active participant. It is also submitted that revisionist/petitioner involved in one more criminal case, where he is on bail. It is also submitted that nothing can be gathered from investigation report of revisionist/petitioner that he 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 duly assisted by learned counsel Mr. Kundan Rathaur appearing on behalf of the victim/father of deceased, while opposing the prayer of bail submitted that petitioner is not named in the FIR.



Having regard to the submissions advanced as above, and materials showing that the petitioner has been adjudged juvenile aged about 15 years 10 months 18 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 one 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 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 18.10.2022 passed in Cr. Appeal No. 49 of 2022 corresponding to J.J.B. Tr. No. 1226 of 2022 arising out of Sangrampur P.S. Case No. 286 of 2021 by the learned 1st Additional Sessions Judge-cum-Special Judge Children’s Court, East Champaran, Motihari is set aside. Consequently, order dated 19.07.2022 passed by the learned Juvenile Justice Board, Motihari in connection with J.J.B. Tr. No. 1226 of 2022 arising out of Sangrampur P.S. Case No. 286 of 2021, is also set aside.

In view of the above facts and circumstances, as petitioner adjudged juvenile on the date of occurrence, his age is about 15 years 10 months 18 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 Juvenile Justice Board, Motihari in connection with J.J.B. Tr. No. 1226 of 2022 arising out of Sangrampur P.S. Case No. 286 of 2021.

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.), Motihari, 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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