

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.854 of 2022

Arising Out of PS. Case No.-135 Year-2022 Thana- MIRGANJ District- Gopalganj

X1, Petitioner/S

Versus

The State of Bihar. Respondent/s

Appearance :

For the Petitioner/s : Mr. Gautam Kumar Yadav, Advocate

For the Respondent/s : Mr. Shantanu Kumar, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 01-02-2023 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 X1.

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 20.09.2022 passed in Cr. Appeal No. 41/2022 by the Court of learned Additional District and



Session 1 cum-Special Judge Child Court, Gopalganj, and order dated 27.07.2022 passed in Juvenile Enquiry Case No. 161/2022 by the Juvenile Justice Board, Gopalganj (arising out of Mirganj P.S. Case No. 135/2022, whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, aged about 13 years 10 months 17 days on the alleged date of occurrence, is named in F.I.R., and is in custody/observation home since 08.06.2022.

The allegation against petitioner/revisionist is to commit murder of son of the informant alongwith other co-accused persons by causing assault with lathi, rod etc. after calling the deceased from his house.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that informant is not the eye witness of the occurrence and entire allegation is based only upon the suspicion as deceased was called by several accused persons including this petitioner. It is also pointed out that the allegation as regard to call from the house is also not specific against the petitioner rather same is very much general and omnibus. While concluding the argument, it is submitted that revisionist/petitioner is a man of clean antecedent and moreover,



nothing can be gathered from his Social Investigation Report (S.I.R.) as appears from the impugned order itself that petitioner cannot join the mainstream of the society in future.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that mother of the juvenile petitioner is ready to stand as a surety who furnished an undertaking that she will take 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 also grow him as a good and law abiding citizen.

Learned APP, while opposing the prayer of bail fairly conceded that the allegation against revisionist/petitioner is very much general and omnibus as regard to assault.

Having regard to the submissions advanced as above, and materials showing that the petitioner has been adjudged juvenile aged about 13 years 10 months 17 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 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 and shall ensure that he does not fall in bad company and, in case, the petitioner 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 psychological danger; and

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

Accordingly, the impugned order dated 20.09.2022 passed in Cr. Appeal No. 41/2022 by the Court of learned Additional District and Session 1 cum-Special Judge Child



Court, Gopalganj is set aside. Consequently, the order dated 27.07.2022 passed in Juvenile Enquiry Case No. 161/2022 by the Juvenile Justice Board, Gopalganj (arising out of Mirganj P.S. Case No. 135/2022. is also set aside.

The petitioner 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, Gopalganj, in connection with Juvenile Enquiry Case No. 161/2022 (arising out of Mirganj P.S. Case No. 135/2022.

One of the sureties should be the mother of the petitioner 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.), Gopalganj, 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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