

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.839 of 2022

Arising Out of PS. Case No.-52 Year-2022 Thana- TANDWA District- Aurangabad

1. X1
2. X2

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Apurv Harsh, Advocate
For the Respondent/s	:	Mr. Rabindra Kumar, APP

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 no 1 and 2 have given full description in the application, it would be inappropriate to disclose their 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’). Petitioner No. 1 and 2 are being referred to in the cause title as X1 and X2 respectively.

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 14.11.2022, passed by learned 1st Additional District and Sessions Judge, Aurangabad in Criminal Appeal No. 44 of 2022 and order dated 11.10.2022 passed by the Learned Principal Magistrate, Juvenile Justice Board, Aurangabad (arising out of Tandwa) P.S. Case No. 52 of 2022 whereby and whereunder the learned Court has rejected the prayer for bail of the petitioners/revisionists.

Both petitioners/revisionists adjudged juvenile, where the age of petitioner no. 1 is assessed as 13 years, 02 months and 03 days and the age of petitioner no. 2 is 14 years on the alleged date of occurrence i.e. 01.06.2022, are named in F.I.R., and are in custody/observation home since 27.09.2022.

The allegation against both petitioners is to commit murder of son of the informant along with other co-accused persons for dispute and differences arises out of video game and money transactions, arises out of that game.

Learned counsel appearing on behalf of the petitioners/revisionists submitted that from the bare perusal of F.I.R., the thrust of allegation is against co-accused, namely, Ankit Kumar and other un-named 4 to 5 persons, who entered into quarrel with deceased/ son of informant, soon before the occurrence. It is further submitted that from the face of F.I.R.



itself, it can be safely gathered that mere suspicion was raised against both petitioners/revisionists, where nothing surfaced during the course of investigation to incriminate the petitioners. It is also submitted that dead body of son of informant was recovered from the bank of local river, which is an open place, cannot be connected in any manner with these petitioners/revisionists. While concluding the argument, it has been submitted that both petitioners are men of clean antecedents, where their social investigation report (S.I.R.) is also not suggesting anything adverse against them, which is the part of the impugned order itself.

Learned counsel appearing on behalf of the petitioners/revisionists submitted that father and mother of petitioner no. 1 and petitioner no. 2, respectively, are ready to stand as a surety and furnish an undertaking that they will take proper care of the petitioners/revisionists and shall ensure their studies as well as that they would not fall in bad company and would take all possible care to connect them with the mainstream of the society and groom them as good and law abiding citizens.

Learned APP appearing on behalf of the State while opposing the prayer of bail submitted that strong suspicion was



raised against these petitioners, as per F.I.R.

In view of the facts and circumstance and by taking note of nature of allegation, where, petitioner no. 1 and 2 have been adjudged juvenile aged about 13 years 02 months and 03 days and 14 years, respectively, on the alleged date of occurrence, they have no criminal antecedent and the social investigation report of the petitioners is also not showing any adverse material against them so as to dissuade this court for granting release of the petitioners on bail, as also that petitioners have remained in the Observation Home for about 04 months and their (petitioner no.1 and 2) father and mother, respectively, are ready to stand as a surety and furnish an undertaking that if released on bail they will take care of the study of the petitioners/revisionists and shall ensure that they do not fall in bad company and, in case, the petitioners/revisionists indulge in any unlawful act, they 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 persons into association with any known criminal;

(ii) The release is likely to expose the said persons to moral or physiological danger; and

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

Accordingly, the impugned order dated 14.11.2022 passed in Criminal Appeal No. 44 of 2022 by the Court of learned 1st Additional District and Sessions Judge, Aurangabad, is set-aside. Consequently, the order dated 11.10.2022 passed by the learned Juvenile Justice Board, Aurangabad (arising out of Tandwa) P. S. Case No. 52 of 2022 is also set-aside.

The both petitioners/revisionists are 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, Aurangabad/concerned Court in connection with Tandwa P.S. Case No. 52 of 2022.



One of the sureties should be the father of the petitioner no. 1 and mother of the petitioner no. 2 and they will also furnish an undertaking in terms stated here-in-above.

The Probation Officer shall keep on visiting the place of the petitioners and shall submit periodical report to the Juvenile Justice Board (J.J.B.), Aurangabad, regarding conduct of the petitioners/revisionists. If found anything adverse against this petitioners/revisionists, the same will also be reported to the Board for necessary action.

(Chandra Shekhar Jha, J)

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