

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.847 of 2022

Arising Out of PS. Case No.-9 Year-2021 Thana- NOWKOTHI GARHPURA District-
Begusarai

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XYZ

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Narain Sinha, APP
For the Respondent/s : Mr. Navin Kumar Pandey, APP

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CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 08-02-2023 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 05.09.2022 passed in J.J.C.P. Case



No. 25 of 2022 arising out of Nowkothi P.S. Case No. 09 of 2021 passed by the learned Court of Additional Sessions Judge, Begusarai, which was registered for the offences alleged under Section 392 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.

At the outset, learned counsel for the petitioner submitted that at paragraph no. 16 of the bail petition, inadvertently, word relatives has been wrongly typed, as father of the petitioner is ready to keep the petitioner under his guardianship.

Accordingly, learned counsel for the petitioner is permitted to make necessary correction during the course of the day itself.

The petitioner/revisionist, aged about 17 years 10 months and 27 days on the alleged date of occurrence, not named in F.I.R., and is in custody/observation home since 20.07.2021.

The allegation against petitioner/revisionist is to commit robbery alongwith other co-accused persons,while committing so, taken away cash of Rs. 1,42,000/- (Rupees One Lac Forty-two Thousand), one mobile and one motor-cycle



belongs to the informant.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that the name of petitioner/revisionist surfaced on the basis of self-confession, while he was apprehended in Bithan P.S. Case No. 19 of 2021. It is also submitted that juvenile petitioner apprehended in said case also under wrong impression for the reason that the motor-cycle recovered from the house of the petitioner was not the subject of Bithan P.S. Case No. 19 of 2021. It is also submitted that subsequent to the said self-confession, no incriminating material recovered/surfaced during the course of investigation, which may connect this petitioner with present set of robbery. It is also submitted that petitioner named in six more cases of more or less similar nature, where the name of petitioner, almost in all cases, surfaced on the basis of confessional statement/self-statement, as of the present case. It is submitted that as per Social Investigation Report of petitioner/revisionist, which is the part of impugned order itself, nothing adverse can be gathered and in fact, he is the victim of police atrocities. It is submitted that father of the petitioner is ready to keep the petitioner and to extend all possible care and to groom him as a good and law abiding citizen in future.



Learned APP appearing on behalf of the State while opposing the prayer of bail submitted that petitioner is not named in 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 17 years 10 months and 27 days 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 two years 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 05.09.022 passed in Criminal Appeal No. 39 of 2022 by the Court of learned Additional Sessions Judge-I, Begusarai, is set-aside. Consequently, J.J.C.P. Case No. 25 of 2022 (arising out of Nowkothi P.S. Case No. 09 of 2021) by the learned Juvenile Justice Board, Begusarai, 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 Juvenile Justice Board, Begusarai/concerned Court in connection with in connection



with J.J.C.P. Case No. 25 of 2022 (arising out of Nowkothi P.S. Case No. 09 of 2021).

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.), Begusarai, 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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