

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.852 of 2022

Arising Out of PS. Case No.-210 Year-2022 Thana- RUNISAIDPUR District- Sitamarhi

XX

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Uday Kumar, Advocate

For the Respondent/s : Mr.Tarun Prasad Mandal, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 03-02-2023 Heard learned counsel appearing on behalf of the petitioner/revisionist and learned APP appearing on behalf of the State 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 XX.

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 01.10.2022 passed in Cr. Appeal No. 35 of



2022 by the learned P.O. Children Court-Cum-Additional District & Sessions Judge 1st, Sitamarhi and order dated 09.06.2022 passed by the Principal Magistrate, Juvenile Justice Board, Sitamarhi, in J.J.B. No. 1511 of 2022 arising out of Runni Saidpur P.S. Case No. 210 of 2022, whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, adjudged as a juvenile on the date of occurrence, where his age was assessed as 17 years 03 months 13 days, is named in F.I.R., and is in custody/observation home since 27.04.2022.

The allegation against revisionist/petitioner is to have in possession of stolen mobile and motorcycle.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that alleged stolen motorcycle was jointly occupied and, as such, cannot be said that same was recovered from the conscious physical possession of this revisionist/petitioner. It is also submitted that alleged mobile was recovered from the other co-accused persons not from this petitioner. It is further submitted that petitioner involved in one case, where he is on bail. It is also submitted that merely on the basis of statement of undisclosed neighbours, as petitioner can-



not reformed, the bail of petitioner being juvenile cannot be rejected. It is also submitted that the Social Investigation Report (SIR) is based upon the assumptions of undisclosed neighbours, on the basis of which, it cannot be said that petitioner cannot be brought into mainstream of the society after due care.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that mother of the juvenile petitioner, is ready to stand as a surety and furnish an undertaking that she 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 make all efforts to enable him to join the mainstream of society as good and law abiding citizen.

Learned APP, while opposing the prayer of bail fairly conceded that motorcycle was jointly occupied.

Having regard to the submissions advanced as above, and materials showing that the petitioner has been adjudged juvenile aged about 17 years 03 months 13 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 10 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 01.10.2022 passed in Cr. Appeal No. 35 of 2022 by the learned P.O. Children Court-Cum-Additional District & Sessions Judge 1st, Sitamarhi is set aside. Consequently, the order dated 09.06.2022 passed by the Principal Magistrate, Juvenile Justice Board, Sitamarhi, in J.J.B. No. 1511 of 2022 arising out of Runni Saidpur



P.S. Case No. 210 of 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 Principal Magistrate, Juvenile Justice Board, Sitamarhi, in J.J.B. No. 1511 of 2022 arising out of Runni Saidpur P.S. Case No. 210 of 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.), Sitamarhi, 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)

veena/-

U		T	
---	--	---	--

