

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.875 of 2022

Arising Out of PS. Case No.-42 Year-2022 Thana- BALTHAR District- West Champaran

XYZ

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar

For the Respondent/s : Md. Mushtaque Alam

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 18.10.2022 passed by learned 1st Additional Sessions Judge-cum-Special Judge, (SC/ST), Bettiah, West Champaran in B.P. No. 4515 of 2022 arising out of Bathar P.S. Case



No. 42 of 2022 which was registered for offences under Sections 147, 148, 149, 341, 342, 323, 324, 325, 326, 332, 333, 307, 337, 338, 379, 380, 427, 353, 447, 448, 452, 302, 395, 186, 188, 201, 504, 506 and 120(B) of the Indian Penal Code (for short 'I.P.C.') and under Section 27 of the Arms Act, Section 436 of the I.P.C. was added later on in this case whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, aged about 17 years 02 months and 18 days on the alleged date of occurrence, is named in F.I.R., and is in custody/observation home since 21.03.2022.

The allegation against petitioner/revisionist is to attack on police party deterring them to discharge their official functions alongwith 357 named accused persons and several other not named accused persons.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that the nature of allegation against this petitioner/revisionist is very much general and omnibus, where several named accused persons granted bail by one of the learned Co-ordinate Bench of this Court through Cr. Misc. No. 42801 of 2022 and 45426 of 2022 vide both order dated 29.11.2022, having similar allegation as of this petitioner/revisionist. It is submitted that nothing adverse can be gathered from the Social Investigation Report of this petitioner/revisionist, which is the part of impugned order itself. It is also submitted that petitioner/revisionist is a man of clean antecedent



prior to this occurrence but subsequent to this case, he named in two more cases out of same transactions. It is submitted that it is a time to save this juvenile from the hand of police atrocities.

Learned APP appearing on behalf of the State while opposing the prayer of bail fairly conceded the fact that the nature of allegation against this petitioner/revisionist is very much general and omnibus, as per face of 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 02 months and 18 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 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/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 18.10.2022 passed by the Court of learned 1st Additional Sessions Judge-cum-Special Judge, (SC/ST), Bettiah, West Champaran in B.P. No. 4515 of 2022 arising out of Balthar P.S. Case No. 42 of 2022 by the learned Juvenile Justice Board, Bettiah, West Champaran, 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 (J.J.B.), Bettiah, West Champaran/concerned Court in connection with in connection with B.P. No. 4515 of 2022 (arising out of Balthar P.S. Case No. 42 of 2022).

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.), Bettiah, West Champaran, 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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