

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.905 of 2022

Arising Out of PS. Case No.-166 Year-2021 Thana- GURUA District- Gaya

XYZ

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

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

For the Respondent/s : Ms. Sharda Kumari, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 10-02-2023 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 09.12.2021 passed by learned Juvenile Justice Board (for short 'J.J.B.'), Gaya in Gurua P.S. Case No. 166 of 2021 as well as order dated 14.02.2022 passed by Learned Special Judge



(Children's Court), Gaya in Criminal (Appeal) Juvenile No. 10 of 2022 (CIS) whereby and whereunder the Juvenile Justice Board, Gaya as well as the Appellate Court have rejected the regular bail application of the petitioner in connection with Gurua P.S. Case No. 166 of 2021 instituted under Section 30(a) of the Bihar Prohibition Excise (Amendment) Act, 2016 against this petitioner and another and the C.I.C.L.

The petitioner/revisionist adjudged as juvenile on the alleged date of occurrence, where his age was assessed as 17 years 07 months and 01 days, named in F.I.R., and is in custody/observation home since 03.08.2021.

The allegation against the petitioner/revisionist is to be engaged in illegal trading/manufacturing of illicit liquor, where, there is recovery of 50 litres of IMFL/country made liquor from the Nano car in which petitioner/revisionist found accompanied with other co-accused.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that petitioner was falsely implicated in present case, where no illicit liquor was recovered from his conscious physical possession for the reason that petitioner took a lift for a local destinations, having no knowledge that the said car is carrying illicit liquor. It is submitted that petitioner alleged to be involved in altogether 12 cases just within span of three years, which in itself sufficient to suggest that he is the victim of police atrocities



at local level. It is also submitted that in most of the cases, as pointed out, the name of petitioner appeared on the basis of confessional statement of co-accused persons, having no bearing on the merit of the case. It is submitted that as per Social Investigation Report (for short 'S.I.R.') nothing adverse can be gathered against this petitioner. It is submitted that mother of the petitioner is ready to furnish his undertaking, so as to extend her full care and help to bring him into the mainstream of the society after grooming 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 a man of criminal antecedent.

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 07 months and 01 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 one year 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/revisionist and shall ensure that he does not fall in bad company and, in case, the petitioner/revisionist 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 physiological danger; and

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

Accordingly, the impugned order dated 09.12.2021 passed in Criminal Appeal No. 10 of 2022 by the Court of learned Special Judge, (Children's Court), Gaya, is 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, Gaya/concerned Court in connection with Gurua P.S. Case No. 166 of 2021).



One of the sureties should be the mother of the petitioner/revisionist 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.), Gaya, 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)

pooja/-

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

