

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.898 of 2022**

Arising Out of PS. Case No.-35 Year-2022 Thana- MAHARAJGANJ District- Siwan

XYZ

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Y. C. Verma, Senior Advocate Ms. Kumari Anupam, Advocate
For the Respondent/s	:	Mr. Binay Krishna, APP

**CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER**

3 02-02-2023 Heard learned counsel appearing on behalf of the
petitioner/revisionist.

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.

As matter is related with SC/ST Act, accordingly, in compliance of Section 15(A)(3) of SC/ST (POA) Act, notice was issued to the informant, served upon, but failed to join the court proceedings.



The present revision application is being preferred against impugned order dated 23.09.2022 passed by learned 1st Additional Sessions Judge-cum- P.O. (Children Court), Siwan in Criminal Appeal No. 41 of 2022 and order dated 05.04.2022 passed by the Learned Principal Magistrate, Juvenile Justice Board, Siwan in J.J.B. Case No. 54 of 2022 (arising out of Maharajganj P.S. Case No. 35 of 2022), whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, aged about 15 years 03 months and 24 days on the alleged date of occurrence i.e. 25.01.2022, is named in F.I.R., and is in custody/observation home since 28.01.2022.

The allegation against this petitioner/revisionist is to commit the murder of nephew of informant by causing firearm injury along with other co-accused persons, due to previous enmities.

It is submitted by learned senior counsel, Sri Y.C. Verma, while appearing on behalf of the petitioner that petitioner/revisionist has been adjudged juvenile aged about 15 years 03 months and 24 days, on the alleged date of occurrence. It is also submitted by learned senior counsel that initially the



occurrence was a scuffle, but subsequently, in spur of moment a firing was made, causing death of nephew of informant. It is also submitted that from social investigation report, which is the part of the impugned order itself, it appears that juvenile is of good character and presently, he has to appear in intermediate examination commencing from 04.02.2023. It is also pointed out that father of petitioner/revisionist furnished his undertaking on affidavit, ensuring thereof that he will extend all possible care to groom his son as good and law abiding citizen in future.

Learned APP appearing on behalf of the State while opposing the prayer of bail submitted that allegations of firing is specific against this petitioner/revisionist.

In view of the facts and circumstances and as petitioner/revisionist has been adjudged juvenile aged about 15 years 03 months and 24 days approximately on the alleged date of occurrence and the social investigation report of the petitioner 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/revisionist 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 and shall



ensure that he does not fall in bad company and, in case, the petitioner 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 23.09.2022 passed in Criminal Appeal No. 41 of 2022 by the Court of learned 1st Additional Sessions Judge-cum-P.O. (Children Court), Siwan, is set-aside. Consequently, the order dated 05.04.2022 passed in J.J.B. Case No. 54 of 2022 (arising out of



Maharajganj P.S. Case No. 35 of 2022) by the learned Juvenile Justice Board, Siwan, 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, Siwan/concerned Court in connection with J.J.B. Case No. 54 of 2022 (arising out of Maharajganj P.S. Case No. 35 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.), Siwan, 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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