

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.891 of 2022

Arising Out of PS. Case No.-14 Year-2021 Thana- PAUTHU District- Aurangabad

ABC

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

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

For the Respondent/s : Mr.Md. Ataur Rahman, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 04-02-2023 Heard learned counsel appearing on behalf of the parties.

At the outset, learned counsel appearing on behalf of the petitioner submitted that permission be accorded to add the **word ‘maternal’ in affidavit part before “grandmother”**, in para-I, as same left inadvertently to add and secondly, to correct para-VIII of the grounds, where ‘father’ is to be read as **“maternal grand-mother”**, for the reason that father of the petitioner is also accused in this case.

It is prayed that these two above mentioned corrections be permitted to be made, during the course of the day itself.

Requests allowed.

Corrections, as aforesaid be made, during the course of the day itself.



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 ABC.

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 14.11.2022 passed by the Court of learned 1st, Additional District and Sessions Judge, Aurangabad in Criminal Appeal No. 34 of 2022 and order dated 08.07.2022 passed by the Learned Juvenile Justice Board, Aurangabad in G.R. No. 402 of 2021 and J.J.B. Case No. 402 of 2021 (arising out of Pauthu) P.S. Case No. 14 of 2021, whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, aged about 15 years, 10 months and 01 day on the alleged date of occurrence i.e. 25.02.2021, named in F.I.R., and is in custody/observation home since 14.05.2022.



The allegation against this petitioner/revisionist is to commit the murder of cousin grandfather of the informant along with other co-accused persons by making assault with *lathi, danda, rod, khanti* etc., due to previous land disputes.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that allegation as regard to assault is very much general and omnibus against this petitioner and moreover, the implication was due to previous enmities and being the family member of the main co-accused. It is further submitted that several co-accused persons have been granted bail by one of the learned Co-ordinate Bench of this Court through Cr. Misc. No. 13288 of 2022 vide order dated 23.03.2022, Cr. Misc. No. 51590 of 2022 vide order dated 16.12.2022 and Cr. Misc. No. 52690 of 2022 vide order dated 13.12.2022. While concluding the argument, it has been submitted that petitioner is a man of clean antecedent and moreover, nothing adverse can be gathered from the S.I.R. (social investigation report) of the petitioner, which is the part of the impugned order, itself.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that maternal grand-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 would take all possible care to connect him with the mainstream of the society and groom him as a good and law abiding citizen.

Learned APP appearing on behalf of the State, while opposing the prayer of bail fairly conceded the fact that nothing adverse can be gathered from the S.I.R. (social investigation report) of the petitioner.

In view of the facts and circumstance and by taking note of nature of allegation, where, petitioner/revisionist has been adjudged juvenile aged about 15 years, 10 months and 01 day on the alleged date of occurrence, he has no criminal antecedent 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 has remained in the Observation Home for about 08 months and his maternal grand-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 14.11.2022 passed in Criminal Appeal No. 34 of 2022 by the Court of learned 1st, Additional District and Sessions Judge, Aurangabad, is set-aside. Consequently, the order dated 08.07.2022 passed in J.J.B. Case No. 402 of 2021 (arising out of Pauthu) P.S. Case



No. 14 of 2021 by the learned Juvenile Justice Board, Aurangabad, 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 Principal Magistrate, Juvenile Justice Board, Aurangabad/concerned Court in connection with J.J.B. Case No. 402 of 2021 (arising out of Pauthu) P.S. Case No. 14 of 2021.

One of the sureties should be the maternal grandmother 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.), Aurangabad 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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