

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.890 of 2022

Arising Out of PS. Case No.-377 Year-2021 Thana- BUDDHACOLONY District- Patna

XYZ

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Yadav, Advocate

For the Respondent/s : Mr. Ram Naresh Ray, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 04-02-2023 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 05.07.2022 passed by learned 1st



Additional District and Sessions Judge-cum-Special Judge, Children's Court, Patna in Criminal Appeal No. 43 of 2022 arising out of Budhdha Colony P.S. Case No. 377 of 2021, Corresponding J.J.B. No. 647 of 2021 which has been registered for offences under Sections 302 and 34 of the Indian Penal Code and under Sections 27 of the Arms Act, whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, aged about 15 years 09 months and 22 days on the alleged date of occurrence, is named in F.I.R., and is in custody/observation home since 23.10.2021.

The allegation against petitioner/revisionist is to commit murder of son of the informant by causing fire arm injuries, due to previous enmities.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that the name of petitioner/revisionist surfaced on the basis of suspicion, as before three or four days of this occurrence, an altercation took place with deceased, where nothing surfaced incriminating, during the course of investigation, arises out of said suspicion to suggest the involvement of petitioner/revisionist in present occurrence of murder. It is submitted that subsequent to this



offence police named this petitioner/revisionist in a case which was lodged for recovery of a country made pistol from the house of the petitioner/revisionist, which was jointly occupied and, as such, it can not be said that fire arm was recovered from his conscious physical possession. It is also submitted that nothing adverse can be gathered from the Social Investigation Report of the petitioner, which is the part of impugned order itself.

Learned APP appearing on behalf of the State while opposing the prayer of bail fairly conceded the fact that the informant is not the eye witness of the occurrence.

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 09 months and 22 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 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 05.07.2022 passed in Criminal Appeal No. 43 of 2022 by the Court of learned 1st Additional Sessions Judge-cum-Special Judge,



(Children's Court), Patna is set-aside. Consequently, J.J.B. Case No. 647 of 2021 (arising out of Budhdha Colony P.S. Case No. 377 of 2021) by the learned Juvenile Justice Board, Patna, 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, Patna/concerned Court in connection with J.J.B. Case No. 647 of 2021 (arising out of Budhdha Colony P.S. Case No. 377 of 2021).

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.), Patna, 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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