

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.892 of 2022

Arising Out of PS. Case No.-249 Year-2022 Thana- NATHNAGAR District- Bhagalpur

X1

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Baijnath Sah, Advocate
For the Respondent/s	:	Mr. Navin Kumar Pandey, APP
For the Informant	:	Mr. Ashutosh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

3 08-02-2023 Heard learned counsel appearing on behalf of the petitioner/revisionist, learned APP appearing on behalf of the State as well as learned counsel appearing on behalf of the informant.

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 X1.

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 order dated 02.11.2022 passed by the learned Additional Session Judge -1 cum Special Judge Children Court, Bhagalpur, in Special Case (Children) No. 25 of 2022 arising out of Nath Nagar Police Station Case No. 249 of 2022 and order dated 24.08.2022 passed by J.J. Board, Bhagalpur, whereby and whereunder the learned Court has rejected the prayer for bail of the petitioner/revisionist.

The petitioner/revisionist, adjudged as a juvenile on the date of occurrence, where his age was assessed as 17 years 01 month 26 days, not named in F.I.R., and is in custody/observation home since 23.04.2022.

Allegation against revisionist/petitioner is to commit murder of the son of informant after kidnapping, due to previous enmities.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that the entire allegation is based upon the suspicion, where nothing incriminating surfaced during the course of investigation to connect petitioner with present occurrence of murder. It is also submitted that merely on the basis of call details report, and as petitioner was found seen

with deceased prior to this occurrence, he cannot be implicated in this case. It is also submitted that deceased himself was found in bad association and in habits to take drugs etc. It is further submitted that petitioner is a man of clean antecedent and as per Social Investigation Report (SIR), revisionist/petitioner appears to be a very gentleman person.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that father of the juvenile petitioner, is ready to stand as a surety and furnish an undertaking that he 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 make all efforts to enable him to join the mainstream of society as good and law abiding citizen.

Learned APP duly assisted by learned counsel Mr. Ashutosh Kumar appearing on behalf of the informant, while opposing the prayer of bail, fairly conceded that petitioner is not named in FIR.

Having regard to the submissions advanced as above, and materials showing that the petitioner has been adjudged juvenile aged about 17 years 01 month 26 days approximately on the alleged date of occurrence, the social investigation report

of the petitioner is 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 10 months 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 psychological danger; and

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

Accordingly, the impugned order dated 02.11.2022 passed by the learned Additional Session Judge -1 cum Special Judge Children Court, Bhagalpur, in Special Case (Children) No. 25 of 2022 arising out of Nath Nagar Police Station Case No. 249 of 2022 is set aside. Consequently, order dated 24.08.2022 passed by J.J. Board, Bhagalpur, is also set aside.

In view of above facts and circumstances and by taking note of the accusation that petitioner adjudged as juvenile on the date of occurrence, the petitioner 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 J.J. Board, Bhagalpur, in Special Case (Children) No. 25 of 2022 arising out of Nath Nagar Police Station Case No. 249 of 2022.

One of the sureties should be the father of the petitioner 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.), Bhagalpur, regarding conduct of the petitioner. If found anything adverse against this petitioner, the same will also be reported to the Board for necessary action.

(Chandra Shekhar Jha, J)

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