

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.909 of 2022

Arising Out of PS. Case No.-370 Year-2022 Thana- BEGUSARAI MUFFASIL District-
Begusarai

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XYZ

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Binod Kumar, Advocate
		Mr. Amar Kumar Singh, Advocate
For the Respondent/s	:	Mr. Jharkhandi Upadhyay, APP

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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 16.11.2022 passed in Cr. Appeal No. 57 of
2022 by learned 1st Additional Sessions Judge-cum-Special Judge,



Children's Court, Begusarai whereby and whereunder order dated 24.08.2022 passed by the Learned Principal Magistrate, Juvenile Justice Board, Begusarai passed in J.J.B. Case No. 249 of 2022 (arising out of Muffasil (Singhaul O.P.) P.S. Case No. 370 of 2022 which was registered for offences under Sections 302 and 34 of the Indian Penal Code (for short 'I.P.C.') and under Section 27 of the Arms Act by which regular bail of petitioner was rejected by J.J. Board, Begusarai was confirmed.

The petitioner/revisionist, aged about 17 years 04 months and 05 days on the alleged date of occurrence, named in F.I.R., and is in custody/observation home since 29.07.2022.

The allegation against petitioner/revisionist is to commit murder of grandson of the informant alongwith other named co-accused persons by causing firearm injuries due to previous enmities.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that the petitioner/revisionist has been falsely implicated in present case out of local village politics and differences. It is also submitted that the specific allegation as regard to cause fatal firearm injuries are available against co-accused persons, namely, Nirmal Rai and Mister Kumar, where allegation against this petitioner is limited to hold injured/deceased alongwith other co-accused persons, without any specific allegations, as regard to assault. It is submitted that petitioner is a man of clean antecedent, where it appears from Social Investigation Report of the petitioner



that he is a student of Intermediate (+2) and efforts are required to be made for his continuous study. It is also submitted that father of the petitioner is ready to furnish his undertaking as to extend his help and care to groom him as a good and law abiding citizen in future.

Learned APP appearing on behalf of the State while opposing the prayer of bail fairly conceded the fact that the allegation of causing fatal firearm injuries is not available against this petitioner, as per the face of F.I.R.

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 04 months and 05 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 six 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/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 16.11.2022 passed in Criminal Appeal No. 57 of 2022 by the Court of learned 1st Additional Sessions Judge-cum-Special Judge, (Children's Court), Begusarai is set-aside. Consequently, the order dated 24.08.2022 passed in J.J.B. Case No. 249 of 2022 (arising out of Muffasil (Singhaul O.P.) P.S. Case No. 370 of 2022) by the learned Principal Magistrate, Juvenile Justice Board, Begusarai, 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, Begusarai/concerned Court in connection with in connection with



J.J.B. Case No. 249 of 2022 (arising out of Muffasil P.S. Case No. 370 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.), Begusarai, 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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