

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.911 of 2022

Arising Out of PS. Case No.-105 Year-2022 Thana- NAUTAN District- West Champaran

1. XYZ (Petitioner No. 1)
2. XYZ (Petitioner No. 2)

... .. Petitioners

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Bal Govind Sharma, Advocate
For the Respondent/s	:	Mr. Naveen Kumar Pandey, APP

CORAM: HONOURABLE MR. JUSTICE CHANDRA SHEKHAR JHA
ORAL ORDER

2 10-02-2023 Heard learned counsel appearing on behalf of the petitioners/revisionists and learned APP appearing on behalf of the State.

Though the petitioners have given full description in the application, it would be inappropriate to disclose their 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'). They are being referred to in the cause title as XYZ (Petitioner No. 1) and XYZ (Petitioner No. 2).

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 02.11.2022 passed by learned Additional District and Sessions Judge 1st-cum-Special Judge, SC/ST, Bettiah, West Champaran in Criminal Appeal No. 46 of 2022 arising out of Nautan P.S. Case No. 105 of 2022 dated 01.03.2022 which was registered for offences under Sections 30(a) of the Bihar Prohibition and Excise Act, 2016 by which the learned Additional District and Sessions Judge 1st cum Special Judge, SC/ST, Bettiah, West Champaran rejected the prayer for bail of these petitioners and confirmed the order dated 21.07.2022 passed by the learned J.J.B., Bettiah, West Champaran.

Both petitioners/revisionists adjudged as juvenile on the alleged date of occurrence, where age of petitioner no. 1 was assessed as 15 years 04 months and 05 days and the age of petitioner no. 2 was assessed as 17 years 03 months and 21 days.

Both petitioners/revisionists are named in F.I.R., and are in custody/observation home since 01.04.2022.

The allegation against both petitioners/revisionists is to engaged in illegal activities of illicit liquor, where both of them were found in possession of 276.588 litres of Indian Made Foreign Liquor (for short 'IMFL') alongwith other co-accused



persons.

Learned counsel appearing on behalf of the petitioners/revisionists submitted that the name of petitioners/revisionists surfaced on the basis of disclosure made by co-accused Raj Narayan Ram, where nothing incriminating surfaced/recovered during the course of investigation, which may connect both above named petitioners with recovery of alleged illicit liquor. It is also pointed out that admittedly illicit liquor was not recovered from the physical possession of these petitioners. While arguing over the matter, learned counsel submitted that both petitioners are men of clean antecedent and moreover, as per Social Investigation Report (for short 'S.I.R.') nothing adverse can be gathered against these petitioners. It is further submitted that father of petitioner no. 1, namely, Vinod Yadav and brother of petitioner no. 2, namely, Sunil Kumar undertake to extend all connecting measures to bring both petitioners into the mainstream of the society and to groom them as a good and law abiding citizens in future.

Learned APP appearing on behalf of the State while opposing the prayer of bail fairly conceded the fact that the recovery of alleged illicit liquor not appears to be made from the physical possession of these petitioners, as per face of F.I.R.



In view of the facts and circumstance and by taking note of nature of allegation, where, both petitioners/revisionists have been adjudged juvenile on the alleged date of occurrence, where age of petitioner no. 1 was assessed as 15 years 04 months and 05 days and the age of petitioner no. 2 was assessed as 17 years 03 months and 21 days and the social investigation report of these petitioners/revisionists is also not showing any adverse material against them so as to dissuade this Court for granting release of these petitioners on bail, as also that both petitioners have remained in the Observation Home for about one year and father of petitioner no. 1 and brother of petitioner no. 2 are ready to stand as a surety and furnish an undertaking that if released on bail they will take care of the study of these petitioners/revisionists and shall ensure that they do not fall in bad company and, in case, these petitioners/revisionists indulges in any unlawful act, they 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 02.11.2022 passed by the Court of learned Additional District and Sessions Judge 1st-cum-Special Judge, SC/ST, Bettiah, West Champaran in Criminal Appeal No. 46 of 2022 arising out of Nautan P.S. Case No. 105 of 2022 is set-aside.

Both above named petitioners/revisionists are 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, Bettiah, West Champaran/concerned Court in connection with Nautan P.S. Case No. 105 of 2022.

One of the sureties should be the father of petitioner



no. 1 and brother of petitioner no. 2 and they will also furnish an undertaking in terms stated here-in-above.

The Probation Officer shall keep on visiting the place of these petitioners and shall submit periodical report to the Juvenile Justice Board (J.J.B.), Bettiah, West Champaran, regarding conduct of these petitioners/revisionists. If found anything adverse against these petitioners/revisionists, the same will also be reported to the Board for necessary action.

(Chandra Shekhar Jha, J)

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