

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.31 of 2023

Arising Out of PS. Case No.-137 Year-2022 Thana- NAVINAGAR District- Aurangabad

Mithun Chandrawanshi S/o Pukar Chandrawanshi, R/v- Simari Tole Teliya Bigha, P.S.- Nabinagar, District- Aurangabad (Bihar) under the guardianship of Uncle Anil Kumar aged about 50 years Male son of Panchu Singh, R/o Mohalla- Kishori Sinha, Mahila College, Dani Bigha, P.O. and P.S. and District- Aurangabad (Bihar).

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shailesh Kumar Singh, Adv.
For the Respondent/s	:	Ms. Usha Kumari No.1, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN
ORAL JUDGMENT

Date : 20-03-2023

Heard learned counsel for the petitioner and
learned counsel for the State.

The present Cr. Revision Application has been filed against the order dated 08.09.2022 passed by Juvenile Justice Board, Aurangabad in G.R. No. 47 of 2022 (J.J.B. 801 of 2022) arising out of Nabinagar P.S. Case No. 137 of 2022 lodged under Sections 147, 148, 149, 341, 323, 325, 504, 354(B), 307 of Indian Penal Code, later on section 302 of I.P.C. read with Section 3(i)(r)(s), 3(2) (va) of SC/ST Act (POA) Act, 1989 has been added vide order dated 27.04.2022 as well as against the order dated 21.11.2022 passed by 1st Additional District & Sessions Judge, Aurangabad in Cr. Appeal No. 42 of 2022.

Learned counsel for the petitioner submits that the petitioner has been made accused in this case, but from the contents of F.I.R. there is no specific allegation against the present petitioner of any act or overt act. He further submits that petitioner is a minor and under retaliation his name was given in the F.I.R. He also submits that for the same date and place of occurrence, there was case and counter case. One case was filed from the side of petitioner also. Learned counsel submits that upon getting the name of petitioner, he has surrendered and went in the observation home since 24.04.2022. He further submits that injury took place from both the sides and the said injury resulted into death.

Learned counsel submits that the petitioner is not named in any case as he is having clean antecedent rather on the occasion of marriage of his sister, *Barat* party has come with a dance program and at the dance program the dispute arose between two parties, in result, case and counter case has been filed. He further submits that the petitioner has been declared juvenile and, as such, he is in conflict with law.

Learned counsel further submits that the Social Investigation Report of Probationer Officer, Aurangabad has been called for, which clearly indicates that there was no

previous enmity between the family and petitioner has no criminal history but he has raised a doubt that the present case may expose the child in conflict with i.e. petitioner to physical, moral and psychological danger and, therefore, on this ground alone his bail was rejected. He further submits that other accused persons of this case have been granted bail.

Learned counsel for the State submits that the petitioner may be released upon imposing certain restrictions.

Upon going through the records of the case, hearing the parties and the order under challenge as well as the position of law, it transpires to this Court that applicability of principle of presumption of innocence and the principle of equality and non-discrimination have to apply in the present case.

In this view of the matter, let the petitioner is directed to be released from observation home on the undertaking given by his father and mother that they shall take care and he shall not involve in such type of activities in future.

Condition is hereby also imposed that the petitioner alongwith his father shall visit periodically in the first week of every month before the Probationer Officer.

With this observation, the present Cr. Revision

Application stands allowed and the order dated 08.09.2022 passed by Juvenile Justice Board, Aurangabad in G.R. No. 47 of 2022 (JJ.B. 801 of 2022) arising out of Nabinagar P.S. Case No. 137 of 2022 as well as the order dated 21.11.2022 passed by 1st Additional District & Sessions Judge, Aurangabad in Cr. Appeal No. 42 of 2022 are hereby set-aside.

(Dr. Anshuman, J.)

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CAV DATE	
Uploading Date	
Transmission Date	