

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1 of 2023

Arising Out of PS. Case No.-167 Year-2022 Thana- RUNISAIDPUR District- Sitamarhi

XYZ

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Uday Kumar, Advocate

For the Respondent/s : Md. Fahimuddin, APP

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 23.11.2022 passed in Cr. Appeal No. 65 of 2022 by the learned P.O. Children Court-cum-Additional District and Sessions Judge 1st Sitamarhi, which was preferred against the order



dated 05.09.2022 passed by learned Principal Magistrate, Juvenile Justice Board (for short 'J.J.B.'), Sitamarhi in J.J.B. No. 1669 of 2022 arising out of Runnisaidpur P.S. Case No. 167 of 2022 which has been registered under Section 394 of the Indian Penal Code (for short 'I.P.C.').

The petitioner/revisionist adjudged as juvenile on the alleged date of occurrence, where his age was assessed as 17 years 02 months and 25 days, not named in F.I.R., and is in custody/observation home since 25.07.2022.

The allegation against the petitioner/revisionist is to commit robbery alongwith other unnamed co-accused persons and while committing so taken away motor-cycle belongs to informant.

Learned counsel appearing on behalf of the petitioner/revisionist submitted that petitioner has been falsely implicated in present case. It is submitted that implication is based upon self-confession, while petitioner apprehended in Runnisaidpur P.S. Case No. 210 of 2022, where no incriminating material recovered/ surfaced during the course of investigation and, as such, entire implication is based upon suspicion and self-confession, having no bearing over the merit of case. It is also submitted that subsequent to this occurrence, petitioner named in three more cases of similar nature and in all cases his name surfaced on the basis of self-confession, as of the present case. It is submitted that as per Social Investigation Report (for short 'S.I.R.'), nothing can be



gathered to suggest that petitioner cannot be groomed as a good citizen and be brought back into the mainstream of the society. It is submitted that the mother of the petitioner is ready to furnish undertaking as to extend her full support 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 petitioner is not named in 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 02 months and 25 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 mother is ready to stand as a surety and furnish an undertaking that if released on bail she 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, she 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 23.11.2022 passed in Criminal Appeal No. 65 of 2022 by the Court of learned P.O. Children Court-cum-Additional District and Sessions Judge 1st Sitamarhi as well as Order dated 05.09.2022 passed by Principal Magistrate, Juvenile Justice Board, Sitamarhi in J.J.B. No. 1669 of 2022 (arising out of Runnisaidpur P.S. Case No. 167 of 2022), is 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, Sitamarhi/concerned Court in connection with Runnisaidpur P.S. Case No. 167 of 2022.



One of the sureties should be the mother of the petitioner/revisionist and she 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.), Sitamarhi, 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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