

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.113 of 2024

Arising Out of PS. Case No.-658 Year-2018 Thana- KHAJANCHI HAT District- Purnia

XXX, Son of Gultan Yadav @ Prabhash Kumar, R/o Village - Kanp,
(Madhepura Tola), P.S.- Sour Bazar, District- Saharsa.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner	:	Mr. N.K. Agrawal, Senior Advocate Mr. Bidhu Ranjan, Advocate Mr. Kumar Rajdeep, Advocate
For the Respondent	:	Mr. Md. Fahimuddin, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 26-07-2024 Heard Mr. N.K. Agrawal, learned Senior Counsel

assisted by Mr. Bidhu Ranjan, learned counsel for the petitioner

and Mr. Md. Fahimuddin, learned APP for the State.

2. This revision application has been preferred for setting aside the order dated 04.11.2023 passed by learned 1st Additional Sessions Judge-cum-Special Judge, Kishore, Purnea in Special (Kishore) Case No. 08 of 2021/CIS No. 08 of 2021 arising out of K.Hat P.S. Case No. 658 of 2018 registered for the offences punishable under Sections 302, 224, 120B/34 of the Indian Penal Code and Section 27 of the Arms Act whereby and whereunder the prayer of the petitioner for bail has been rejected. The petitioner has 28 criminal antecedents. He has been taken on remand in connection with this case on 23.06.2020 and is confined in the Observation Home.

3. As per the prosecution story, one Md. Ehshanul Haque, the In-charge of the Observation Home in Purnea has submitted his written report to the S.H.O., Purnea on 19.09.2018 alleging therein that on the same day at 05.26 P.M., he received a telephonic call that this petitioner along with four other name accused persons had opened fire upon the employee of the observation home who is the House Father, namely, Bijendra Kumar and one Juvenile and both of them have sustained injuries. It is alleged that both the injured persons were brought to Sadar Hospital, Purnea but they were declared dead by the doctor. It is further alleged that all the five accused persons fired upon the House Father and the juvenile and when the Home Guard of the observation home opened the gate, they fled away from the observation home.

4. It appears that earlier, the petitioner had applied for bail vide Cr. Revision No. 248 of 2022 and Cr. Revision No. 128 of 2023 which were dismissed by this Court vide orders dated 29.08.2022 and 13.10.2023 respectively. In Cr. Revision No. 128 of 2023, this Court had granted liberty to the petitioner to move the learned trial court once again.

5. Learned Senior Counsel for the petitioner submits that by virtue of the order of this Court, the petitioner once

again moved in the learned trial court for grant of bail which has been rejected vide the impugned order dated 04.11.2023.

6. Mr. N.K. Agrawal, learned Senior Counsel has mainly contended that this petitioner has remained in incarceration for about four years, therefore, if the trial is not being concluded, the petitioner would deserve privilege of bail. It is pointed out that the petitioner has been adjudged juvenile aged about 17 years 5 months at the time of occurrence, he is being tried as an adult in the court of learned Special Judge (Kishore), Purnea.

7. On the other hand, learned APP for the State submits that considering the merit of the case and on finding that this petitioner being in the observation home in connection with other case as a juvenile in conflict with law had committed murder of the House Father and one juvenile and fled away from the observation home and further taking into consideration that there are altogether 29 cases in which the petitioner is an accused, this Court refused to enlarge the petitioner on bail.

8. Learned APP further submits that in paragraph '3' of his application, the petitioner has disclosed about 28 cases pending against him, it is stated that 21 cases have been disposed of by the learned Juvenile Justice Board but very

carefully, it has not been disclosed as to whether the case has been disposed of in favour of the petitioner or otherwise.

9. This Court has heard learned Senior Counsel for the petitioner and learned APP for the State. Earlier, this Court called for a report from the learned trial court which has been received. It is found from the letter of the learned trial court that till 07.03.2024, five chargesheet witnesses out of ten had been examined and for presence of the remaining chargesheet witnesses, fresh summon was issued. The Superintendent of Police, Purnea and Special PP were directed to produce the remaining chargesheet witnesses. The case was fixed for 01.05.2024 for prosecution evidence.

10. This Court made a query from the learned Senior Counsel as to what is the present stage of the case. Learned Senior Counsel on instruction submits that there is no information about the present stage.

11. This Court is of the opinion that this case would fall in the category of one of those cases in which the petitioner would not deserve his release in terms of the principles falling from Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the 'Act of 2015'). Proviso to sub-section (1) of Section 12 of the Act of

2015 specifically reads as under:-

“Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person’s release would defeat the ends of justice...”.

12. Considering the fact that this petitioner has got huge criminal antecedents and large number of prosecution witnesses had already been examined but some of them were still to be examined, in the ends of justice, it would not be appropriate to release the petitioner on bail.

13. The prayer for bail of the petitioner is refused.

14. This revision application is dismissed.

(Rajeev Ranjan Prasad, J)

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