

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.172 of 2024

Arising Out of PS. Case No.-18 Year-2020 Thana- HALSI District- Lakhisarai

Nitish Kumar S/o Masudan Yadav R/o Village- Rata, P.S.- Halsei, District- Lakhisarai, under guardianship of his maternal uncle Sajan Yadav aged about 39 years s/o Bodhan Yadav r/o Village- Devachak, P.S. and District- Jamui
... .. Petitioner

Versus

The State of Bihar Respondent

Appearance :

For the Petitioner/s : Mr.Umesh Prasad, Advocate

For the Respondent/s : Mr.Shailendra Kumar, Addl Public Prosecutor

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

4 23-05-2024 This case has been notified under the heading 'To be mentioned' as order of some other case has been typed in the previous order no.3 dated 21.5.2024.

2. In that view of the matter, previous order dated 21.5.2024 is recalled by the following order:-

3. Heard learned counsel for the parties.

4. The present revision application has been filed against order dated 18.1.2024, passed by the 1st Additional Sessions Judge cum Children Court, Lakhisarai in Cr.Appeal No. 31 of 2023 and order dated 2.12.2023 passed by the Jivenile Justice Board, Lakhisarai in JJBNo. 191 of 2023 lodged for the offence punishable under sections 302/34 IPC, by which, the bail application of the petitioner has been rejected.

5. As per the prosecution case, co-accused Masudan Yadav slammed informant's son on the ground. Thereafter, petitioner and other accused persons sat on the chest of the victim and assaulted him on the temporal region by means of bricks. Victim sustained head injuries and died during treatment.



6. It is submitted on behalf of the petitioner that the petitioner has been declared juvenile as on the date of the occurrence he was 11 years, 2 months and 27 days old. Petitioner is in custody since 27.8.2023. Maternal uncle of the petitioner undertakes that on release of the petitioner he will take care of the petitioner.

7. As per the statute, the bail application of a child in conflict with law is not to be considered on the merit of the case or nature of allegation or gravity of the offence, rather in terms of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as 'J.J.Act'). The Social Investigation Report, submitted by Legal-cum-Probation Officer in respect of the petitioner, is not adverse and there is no such finding to the effect that release of the petitioner will expose him to moral, physical or psychological danger or will fall in association with criminals or his release would defeat the ends of justice. The bail application of the petitioner has been rejected by the learned court below taking into consideration the nature of allegation and gravity of the offence, which is not in consonance with Section 12 of the J.J.Act.

8. At the time of considering the bail matter of a juvenile, the merit of the case or nature and gravity of allegation have no relevancy and are not ground to deny bail to a juvenile, rather the learned court below is required to look into the aspects, which are enumerated in Section 12 of the J.J.Act and Social Investigation Report.

9. Considering the rival submissions of the parties as also the Social Involvement Report and the position of law as stated above, order dated 18.1.2024 is, hereby, set aside and the revision application is allowed.



10. Accordingly, the above-named petitioner is directed to be released on bail on furnishing bail bond of Rs.10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of the Juvenile Justice Board, Lakhisarai in JJB No. 191 of 2023, Hasli Police Station Case No. 18 of 2020, GR No.138 of 2020, subject to condition that one of the bailors will be maternal uncle of the petitioner and he would file an affidavit giving an undertaking to the effect that he will take care of good behaviour and child’s (petitioner) well-being and will not allow him to go in the company of bad elements.

(Prabhat Kumar Singh, J)

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