

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.462 of 2024

Arising Out of PS. Case No.-1006 Year-2022 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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Sk @ Skh, Male, aged about 17 years, Son of Govind Hari @ Govind Sweeper, (The real name of the petitioner has been withheld to protect his identity. The real name of the petitioner is mentioned in Vakalatnama), Resident of Mohalla-Vikramshila Colony, Ward No. 31, P.S.-Tilkamanjhi, District-Bhagalpur, under the natural guardianship of father namely Govind Hari @ Govind Sweeper, Son of....., Resident Of Mohalla-Vikramshila Colony, Ward No. 31, P.S.-Tilkamanjhi, District – Bhagalpur.

... .. Petitioner

Versus

1. The State Of Bihar.
2. Dihal Ram, A.S.I. Resident Of Village - Sirbit, P.S. - Chainpur, District - Kaimur, Presently at Barari O.P., as A.S.I. Bhagalpur.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Ranjan Kumar Jha, Advocate
For the Respondent No. 2:	:	Mr. Jainendra Kumar, Advocate
For the State	:	Mr. Binod Kumar, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

5 26-09-2024 Heard learned counsel for the petitioner, learned counsel for the respondent no. 2 and learned A.P.P. for the State.

2. This Criminal Revision Application has been preferred against the order dated 14.03.2024, passed by learned Ist Additional Sessions Judge-cum-Special Judge (Children Court), Bhagalpur, in Criminal Appeal No. 14 of 2024, whereby the appeal filed by the petitioner was dismissed against the order dated 20.01.2024, passed by learned Principal Magistrate, Juvenile Justice Board, Bhagalpur, whereby and whereunder the



Juvenile Justice Board, Bhagalpur, has rejected the prayer for bail of the petitioner in connection with Kotwali (Barari) P.S. Case No. 1006 of 2022 registered for the offence punishable under Sections 302/34 of the I.P.C.

3. The facts of the case, in brief, is that on 28.10.2022 at 6.30 hours, the informant received an information that a dead body of unknown person was laying under the tree of *Palm (Tar)* in the field situated at Khori Medical Quarter, Surkhikal, the informant alongwith police reached the place of occurrence and recovered the dead body. It is further alleged that there was cut mark on the back side of his head, above the neck and his left ear was also cut.

4. Learned counsel for the petitioner submits that the petitioner is a juvenile and is in Remand Home/Observation Home since 02.11.2022. The petitioner has got no criminal antecedent. He has falsely been implicated in the present case. There is no allegation of tampering with the witnesses alleged against the petitioner. Charge sheet has been submitted in the present case. The petitioner is not named in the F.I.R. His name has surfaced in the present case, in course of investigation, on the basis of disclosure made by the mother of the deceased Nilam Kumari and the co-accused Sourabh Kumar. It is further



submitted that during the course of investigation, the parents of the deceased have stated that there was love affair between their daughter Subhasini Kumari and the co-accused, namely, Saurabh Kumar which their deceased son Samir Kumar @ Ilu always objected, due to which, there was enmity and dispute between Saurabh Kumar and the deceased Samir Kumar. It is further submitted that the petitioner is said to be the friend and associate of the co-accused Saurabh Kumar and he has no concern with the love affair and dispute between the deceased and Saurabh Kumar. Except for this, there is no other substantive evidence to suggest the implication of the petitioner in the present case. There is no eye witness to the alleged offence. It is further submitted that other co-accused persons, namely, Abhishek Kumar, Sagar Kumar @ Chinshu, Ganesh Hari and Vishal Kumar @ Damru have already been granted bail by another Co-ordinate Benches as well as by a Bench of this Court vide Cr. Misc. No. 80012 of 2023 under order dated 22.12.2023, Cr. Misc. No. 69810 of 2023 under order dated 06.11.2023, Cr. Misc. No. 58133 of 2023 under order dated 01.09.2023 and Cr. Misc. No. 53543 of 2023 under order dated 25.08.2023, annexed as Annexure-2 series to the present application. Learned counsel for the petitioner has submitted



that the father of the petitioner is ready to furnish an undertaking that while on bail he will not allow the petitioner to associate with criminals or anti-social elements. The petitioner has relied upon the judgment of ***Lalu Kumar and Ors. V. The State of Bihar (reported in 2019 (4) PLJR 833)*** where a Division Bench of this Court while considering the scope of Section 12 of the Juvenile Justice Act, 2015, in paragraph no. 84 of the judgment has observed the following.

“84. While interpreting Section 12, the Board is duty bound to be guided by the fundamental principles enumerated in Section 3 of the Act of 2015, specially the principles of ‘best interest’, ‘repatriation’ and ‘restoration’ of child. The fundamental principles in Section 3(xii) provides that a child shall be placed in institutional care as a step of last resort after making a reasonable inquiry. The gravity and nature of the offence are immaterial for consideration of bail under the Act of 2015. As per Section 12 of the Act of 2015, an application for bail is not decided by reference to classification of offences, as bailable or non-bailable under the Cr. P.C. All persons alleged to be in conflict with law and apparently a child when apprehended must be released except in the following three circumstances when there is reasonable ground for believing that:-

- (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 psychological danger;*
- and*



(iii) The release would defeat the ends of justice.”

5. It has been further submitted that the Juvenile Justice Board as well as the Appellate Court have not appreciated the Social Investigation Report in its right perspective and passed the impugned judgment and order in a cursory manner without considering the position of law and have declined bail to the revisionist. The revisionist has no criminal antecedent.

6. Learned A.P.P. for the State and learned counsel for the respondent no. 2 are present and has opposed the prayer for bail of the petitioner. It has further been pointed out that the release of the petitioner would defeat the ends of justice.

7. The law requires that reasonable grounds should be there for believing that in the event of grant of bail, the petitioner would go into association of any ‘known criminal’ or exposed to moral, physical and psychological danger or the release of the person would defeat the ends of justice. There is no reference of any known criminal nor there is any other substantive material for the conclusion as recorded by the court below.

8. Hence, the impugned order suffers from failure to exercise jurisdiction vested in law, is result of error apparent on



the face of the record and non-consideration of provisions of law. In the absence of any material or evidence of reasonable grounds, it cannot be said that his release would defeat the ends of justice and having failed to give reasons on three contingencies for declining the bail to the petitioner/revisionist. Accordingly, the order dated 14.03.2024, passed by learned Ist Additional Sessions Judge-cum-Special Judge (Children Court), Bhagalpur in Criminal Appeal No. 14 of 2024, as well as the order dated 20.01.2024 passed by learned Principal Magistrate, Juvenile Justice Board, Bhagalpur, in connection with Kotwali (Barari) P.S. Case No. 1006 of 2022, are set aside and the present criminal revision is allowed.

9. Let the revisionist, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of his father on execution of surety bond of Rs. 20,000/- (Rupees Twenty Thousand Only), to the satisfaction of learned Juvenile Justice Board, Bhagalpur, in connection with Kotwali (Barari) P.S. Case No. 1006 of 2022, subject to the following conditions:-

(i) Natural guardian/father will furnish an undertaking that upon release on bail the revisionist will not be permitted to go into



contact or association with any known criminal or allowed to be exposed to any moral, physical, or psychological danger and further that the father will ensure that the juvenile will not repeat the offence.

(ii) Natural guardian/father will further furnish an undertaking to the effect that the juvenile will pursue his study at the appropriate level which he would be encouraged to do besides other constructive activities and not be allowed to waste his time in unproductive and excessive recreational pursuits.

(iii) The revisionist will be produced as and when required by the Juvenile Justice Board and shall co-operate in the trial.

(Chandra Prakash Singh, J)

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