

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.498 of 2023

Arising Out of PS. Case No.-150 Year-2020 Thana- PURNAHYA District- Sheohar

XXX, Son of Sudhir Mishra @ Sudhakar Mishra, Resident of Village-
Sabhasasaula, P.S.- Suppi, District- Sitamarhi.

XXX is under guardianship of Sudhir Mishra @ Sudhakar Mishra aged about
50 years, Male, S/o Late Harekrishna Mishra who is father of the petitioner.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Ajay Kr Singh No.1, Advocate

For the State : Mr. Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 25-01-2024 Heard learned counsel for the petitioner and Mr.
Akhileshwar Dayal, learned APP for the State.

2. The petitioner in this case is seeking setting aside of the order dated 17.04.2023 passed by learned Additional Sessions Judge-1-cum-Special Judge, Sheohar in Cr. Appeal No. 02 of 2023 arising out of Purnahiya P.S. Case No. 150 of 2020 registered for the offences punishable under Sections 302, 307, 120B, 34 of the Indian Penal Code and Section 27 of the Arms Act whereby and whereunder the order dated 06.02.2023 passed by learned Juvenile Justice Board, Sheohar in the aforementioned case has been affirmed and his release on bail. He has been made accused in Purnahiya P.S. Case No. 153 of 2020, thus, he has one criminal antecedent. The petitioner is in judicial custody since 28.10.2020.



3. Learned counsel for the petitioner submits that the alleged occurrence in the present case took place on 25.10.2020 and in connection with the same, two persons who fired upon the deceased were caught on the spot by the people who had assembled there. Both the persons were caught by the crowd. They disclosed the name of their accomplice, namely, Krishna Kumar Jha @ Babu Saheb Jha of Village Manik Chawk.

4. It is submitted that during investigation, the police arrested the petitioner and the said Krishna Kumar Jha @ Babu Saheb and recovered country-made pistol and cartridge from both the accused persons for which Purnahiya P.S. Case No. 153 of 2020 has been lodged.

5. Learned counsel submits that so far as the present case is concerned, the petitioner's name was not disclosed by the accused who had been caught on the spot. Moreover, it is submitted that all the accused persons who faced trial in the said case have been acquitted in Sessions Trial No. 51 of 2021 from the court of learned Additional Sessions Judge, Sheohar vide judgment dated 12.12.2023. In connection with this case, the petitioner is in judicial custody since 28.10.2020.

6. Learned counsel further submits that the petitioner is a juvenile adjudged by the Juvenile Justice Board and his



social background report and social investigation report does not contain any adverse remarks. Rather, there is every possibility of his connecting with the mainstream of the society, hence, he may be released on bail.

7. Mr. Akhileshwar Dayal, learned APP for the State has after going through the case diary, the social investigation report and the social background report does not dispute that so far as the present case is concerned, the accused who were caught on the spot had disclosed the name of only Babu Saheb and not this petitioner. This petitioner has been arrested when he was found with Babu Saheb and a pistol was allegedly recovered from him. The social investigation report and the social background report do not disclose any adverse remarks against the petitioner.

8. Having regard to the facts and circumstances of the case, the petitioner being a juvenile and has already remained in judicial custody for over three years and there is no adverse report against him, hence, this Court sets aside the impugned order and directs release of the petitioner above named 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, Sheohar in



connection with Purnahiya P.S. Case No. 150 of 2020.

9. And further condition that one of the sureties shall be the father of the petitioner who will also furnish an undertaking that if released on bail, the petitioner shall not be allowed to indulge in any unlawful act, he will be connected with the studies and mainstream of the society. All care will be taken that he does not fall in the company of anti-social elements. In case, the petitioner indulges in any unlawful act, he will inform it to the concerned jurisdictional police station.

10. And it is further ordered that the Probation Officer attached to the Juvenile Justice Board, Sheohar shall keep a vigil over the petitioner and will be submitting his periodical reports to the Juvenile Justice Board, Sheohar as regards the conduct of the petitioner.

11. This revision application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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