

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.639 of 2024

Arising Out of PS. Case No.-19 Year-2024 Thana- KHUTAUNA District- Madhubani

XX, aged 17 years, Male, through Guardian/Father- Dukhi Yadav, Resident of Village- Mansapur, P.S.- Laukahi, District- Madhubani.

... .. Petitioner

Versus

1. The State of Bihar.
2. Dhananjay Kumar, aged about 41 years, Male, So of Shri Jagdish Prasad Singh, resident of village- Goradih, P.S.- Rajaun, Distt.- Banka, presently S.H.O., Khutauna Police Station, District- Madhubani.

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Lakshmindra Kumar Yadav, Advocate
For the State	:	Mr. Rajendra Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

6 22-10-2024 Heard learned counsel for the petitioner and learned A.P.P. for the State.

2. 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. He is being referred to in the cause title as “XX”.

3. Registry while uploading the order on the website shall also ensure that the cause title is reflected in similar manner.

4. This Criminal Revision Application has been preferred by the petitioner against the order dated 27.06.2024,



passed by learned Additional Sessions Judge-I-cum-Special Judge, Children Court, Madhubani, in Juvenile Appeal No. 13 of 2024, arising out of Khutauna P.S. Case No. 19 of 2024, affirming the order dated 24.04.2024, passed by learned Principal Magistrate, Juvenile Justice Board (J.J.B.), Madhubani, wherein prayer for bail of the petitioner was rejected in Khutauna P.S. Case No. 19 of 2024, registered for the offences punishable under Sections 399, 402, 120B of the I.P.C. and Sections 25(1-B)a, 26 and 35 of the Arms Act.

5. As per the prosecution case, police apprehended four miscreants, namely, Raushan Kumar Yadav, Vivek Kumar Yadav, Deepak Kumar Yadav and Pankaj Kumar while they were assembled for making preparation to commit crime and from their possession arms and ammunitions and mobile were recovered. The apprehended co-accused persons disclosed the name of the petitioner and the co-accused Pankaj Kumar Yadav.

6. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case. The name of the petitioner has surfaced in the present case merely on the basis of the confessional statement of the apprehended co-accused persons. Except for this, there is no other substantive evidence to suggest the implication of the petitioner in the



present case. He has no concern with the alleged offence. Nothing incriminating article has been recovered from his possession. It is further submitted that other co-accused person, namely, Raushan Kumar Yadav, has already been granted bail by a Bench of this Court vide Cr. Misc. No. 47886 of 2024 under order dated 30.07.2024. The petitioner has one criminal antecedent as stated in paragraph no. 3 of the bail application. There is no allegation of tampering with the witnesses alleged against the petitioner. 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. It has further been 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 petitioner. It is further submitted that the petitioner is a juvenile and he is in Remand Home/Observation Home since 22.01.2024.

7. Learned A.P.P. for the State has vehemently 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.

8. As per the Social Investigation Report as well as the social background report, this Court finds that there is no adverse remark against the petitioner and further the presumption of innocence of the child cannot be ruled out.

9. Further, a Division Bench of this Court in ***Lalu Kumar and Ors. Vs. State of Bihar [(2019) 4 PLJR 833]***, has held that seriousness and gravity of the offence alleged cannot be made a ground for rejecting bail under the Act of 2015.

10. 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.

11. 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 27.06.2024, passed by learned Additional Sessions Judge-I-cum-Special Judge, Children Court, Madhubani in Juvenile Appeal No. 13 of 2024, as well as the order dated 24.04.2024 passed by learned Principal Magistrate, Juvenile Justice Board, (J.J.B.), Madhubani, in connection with Khutauna P.S. Case No. 19 of 2024, are set aside and the present criminal revision is allowed.

12. Let the petitioner/revisionist, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of his father on execution of bail bond of Rs. 20,000/- (Rupees Twenty Thousand), with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Madhubani, in connection with Khutauna P.S. Case No. 19 of 2024, subject to the following conditions:-

- (i) Natural guardian/father will furnish an undertaking that upon release on bail the petitioner/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 petitioner/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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