

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.724 of 2024

Arising Out of PS. Case No.-830 Year-2023 Thana- DEHRI TOWN District- Rohtas

XX, (Child in conflict with law) aged about 17 years, Male, Son of Binod Chaudhary @ Harendra Choudhary, Resident of Village- English or inglish, P.S.- Barun, District- Aurangabad under the Guardianship of Father of CICL Petitioner Binod Choudhary @ Harendra Chaudhary, aged about 45 years, Male, Son of Munilal Choudhary, Resident of village- English or Inglish, P.S.- Barun, Dist- Aurangabad.

... .. Petitioner

Versus

1. The State of Bihar.
2. Arvind Kumar Singh, Son of Late Ram Lakhan Singh, R/O Village- Pandit Bigha, P.S.- Barun, Dist- Aurangabad.

... .. Respondents

Appearance :

For the Petitioner : Mr. Babu Nandan Prasad, Advocate
For the Respondent No.2: None.
For the State : Mr. Umesh Lal Verma, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 04-12-2024 Heard learned counsel for the petitioner and learned A.P.P. for the State. No one appears on behalf of the respondent no. 2 despite valid service of notice on him.

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 07.08.2024, passed by learned Additional District and Sessions Judge-cum-Special Judge, Children Court, Rohtas at Sasaram, in Cr. Appeal No. 14 of 2024, arising out of Dehri (Town) P.S. Case No. 830 of 2023, affirming the order dated 19.04.2024, passed by learned Juvenile Justice Board (J.J.B.), Rohtas in JJB Case No. 493 of 2023, wherein prayer for bail of the petitioner was rejected in Dehri (Town) P.S. Case No. 830 of 2023, registered for the offences punishable under Sections 302, 120B read with Section 34 of the I.P.C. and Sections 25(1-b)a, 26 and 35 of the Arms Act.

5. As per the prosecution case, on 14.10.2023 at about 7.00 P.M., when the informant's son was going to *Dehri* by his own vehicle to meet his sister then the informant's friend called on the informant's another son's mobile and told him that his brother met with an accident near the *Sone River Bridge*. When the informant reached there and saw that his son was lying there in a very strange condition and some persons were chasing the



Bolero vehicle which got caught with the help of the administration and two people were apprehended who disclosed their names as Ankit Kumar and Sonal Kumar (petitioner) and arms, one *katta* and cartridge were recovered from the possession of the apprehended persons. Thereafter, the informant's son was taken to the hospital, where the doctor declared him dead. The informant has alleged that the accused persons threatened the informant earlier also and they hatched the conspiracy to hit the son of the informant with a *Bolero* vehicle while he was driving due to which he got seriously injured and while being taken for treatment, his son died in the hospital.

6. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case. It is submitted that the informant is not an eye witness to the alleged offence and he has lodged the present case only on the basis of information from his another son Nitish Kumar. The petitioner has been implicated in the present case only on the basis of suspicion that he was sitting in the said *Bolero* vehicle at the time of occurrence and police apprehended him on the spot with the help of his associates. No incriminating article has been recovered from his possession. The alleged recovery was made



from the other co-accused Ankit Kumar, the driver of the said vehicle but police has deliberately taken the signature of the petitioner. He has no concern with the alleged offence. The petitioner has been declared juvenile by the learned Juvenile Justice Board, Rohtas, at the time of occurrence. It is further submitted that other co-accused person, namely, Ashok Kumar @ Gandhi, has already been granted regular bail by a Bench of this Court vide Cr. Misc. No. 31970 of 2024 under order dated 28.06.2024 and the co-accused, Sushil Kumar @ Sushil Yadav, has already been granted anticipatory bail by a Bench of this Court vide Cr. Misc. No. 33293 of 2024 under order dated 09.08.2024 and the co-accused person Pankaj Kumar @ Jimedar Kumar has also been granted regular bail by a Bench of this Court vide Cr. Misc. No. 33810 of 2024 under order dated 13.05.2024, annexed as Annexure P/3 to the present revision application. The petitioner has clean antecedent as stated in paragraph no. 3 of the revision 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 15.10.2023.

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 07.08.2024, passed by learned Additional District and Sessions Judge-cum-Special Judge, Children Court, Rohtas at Sasaram in Cr. Appeal No. 14 of 2024, as well as the order dated 19.04.2024 passed by learned Juvenile Justice Board, (J.J.B.), Rohtas in JJB Case No. 493 of 2023, in connection with Dehri (T) P.S. Case No. 830 of 2023, 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 Additional District and Sessions Judge-cum-Special Judge, Children Court, Rohtas at Sasaram in connection with Sessions Trial No. 82 of 2024 arising out of Dehri (Town) P.S. Case No. 830 of 2023, 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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