

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.496 of 2025

Arising Out of PS. Case No.-327 Year-2024 Thana- DIGHWARA District- Saran

Anand Kumar S/o Prakash Ray @ Om Prakash Kumar R/o vill - Molahan,
P.s.- Dariyapur, Distt.- Saran at Chapra, Under Guardianship of his Father
Prakash Ray @ Om Prakash Kumar, S/o Late Jalim Ray, R/o vill - Molahan,
P.s.- Dariyapur, Distt.- Saran at Chapra

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. Darbari Prasad Rai S/o Late Parma Rai R/o vill - Chhtar Chapra, P.S.-
Dighwara, Distt.- Saran at Chapra, Bihar

... .. Respondent/s

with
CRIMINAL REVISION No. 576 of 2025

Arising Out of PS. Case No.-327 Year-2024 Thana- DIGHWARA District- Saran

Vishal Kumar Son of Prakash Ray @ Om Prakash Kumar R/o Village
Molahan P.S Dariyapur District Saran At Chapra (Bihar) , Under
Guardianship of his Father Prakash Ray @ Om Prakash Kumar, Son of Late
Jalim Ray, R/o vill- Molahan ,P.S Dariyapur , Distt.- Saran at Chapra

... .. Petitioner/s

Versus

- 1. The State of Bihar
- 2. Darbari Prasad Rai Son of Late Parna Rai Resident of village- chhtar
Chapra, Ps- Dighwara, Dist- Saran At Chapra

... .. Respondent/s

Appearance :
(In CRIMINAL REVISION No. 496 of 2025)
For the Petitioner/s : Mr.Rakesh Kumar, Advocate
For the State : Mr.Raj Ballabh Singh, APP
(In CRIMINAL REVISION No. 576 of 2025)
For the Petitioner/s : Mr.Rakesh Kumar, Advocate
For the State : Mr.Chandra Sen Prasad Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT



Date : 09-12-2025

Heard learned counsel for the petitioners and learned APP for the State. However, despite service of notice none has appeared on behalf of opposite party no. 2.

2. Since both the criminal revision petitions arise out of Dighwara P.S. Case No. 327 of 2024 they are taken up together and are being disposed of by this common order.

3. Both the criminal revision petitions have been filed for setting aside the judgments dated 24.04.2025 and 27.05.2025 passed by learned First Additional Sessions Judge -cum- Children Court, Saran at Chapra in Criminal (Juvenile) Appeal Nos. 18 of 2025 and 22 of 2025, respectively and the orders dated 25.02.2025 passed by learned Juvenile Justice Board, Saran at Chapra in J.J.B. No. 1187 of 2024, arising out of Dighwara P.S. Case No. 327 of 2024 registered for the offences under Sections 103(1) & 3(5) of B.N.S., whereby and whereunder both the courts below refused to grant bail to the petitioners.

4. Briefly stated, the facts of the case are that Dighwara P.S. Case No. 327 of 2024 being lodged on the fardbeyan of one Darbari Prasad Rai where he stated that his elder brother was assaulted by the petitioners and other co-



accused persons and the victim was taken to Primary Health Centre from where he was referred to PMCH. While undergoing treatment, the brother of the informant died.

5. Learned counsel for the petitioners submits that the petitioners were declared juvenile vide order dated 02.01.2025 by the learned Juvenile Justice Board, Saran at Chapra and their age was assessed to be 15 years 7 months and 2 days and 16 years 9 months and 8 days, respectively on the alleged date of occurrence. From the FIR it is apparent that no specific allegation has been levelled against the petitioners rather the allegations are omnibus and general. The deceased was having no enmity with the petitioners or their family. He was having enmity with co-accused Mukhiya Ram Ayodhya Rai. Learned counsel further submits that the learned courts below did not consider the material available on record. There is no material to show that the petitioners participated in the alleged occurrence. Further, there is no ground of apprehension that the release of the petitioners would bring them in association with the criminals or expose them to moral physical or psychological danger or their release would defeat the ends of justice. The learned appellate court committed an error in rejecting the prayer for bail of the petitioners because the



impugned orders do not show that the social background report or social investigation report of the petitioners are bad. The father of the petitioners undertake to take care of the well being of the petitioners and produce them before the learned Juvenile Justice Board as and when required. The learned courts below failed to take into account the best interest of the children in conflict with law and further failed to appreciate that there is hardly any material to show their involvement in the said occurrence. The petitioner Anand Kumar is a meritorious student and passed matriculation examination in 2024 in First Division whereas petitioner Vishal Kumar has passed Intermediate Examination in First Division. The petitioners voluntarily surrendered before the court on 19.11.2024 and since then they are in custody and there is no ground of apprehension that the release of the petitioners would bring them in association with the criminals or expose them to moral physical or psychological danger or their release would defeat the ends of justice. Thus, learned counsel submits that the impugned orders are not sustainable as they suffer from illegality, impropriety and irregularity.

6. Learned APP opposes the contention made on behalf of the petitioners. Learned APP submits that the learned



courts below found reasonable apprehension that the release of the petitioners would bring them in association with the criminals or expose them to moral, physical or psychological danger or their release would defeat the ends of justice and hence, the prayer for bail of the petitioners may be rejected.

7. I have given my thoughtful consideration to the rival submission of the parties and perused the record.

8. Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 reads as under:-

“Section 12 Bail to a person who is apparently a child alleged to be in conflict with law.

1) When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a probation officer or under the care of any fit person:

Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to



bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the persons release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.

(2) When such person having been apprehended is not released on bail under sub-section (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home[or a place of safety, as the case may be] in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under sub-section(1)by the Board, it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the order.

(4) When a child in conflict with law is unable to fulfil the conditions of bail order within seven days of the bail order, such child shall be produced before the Board for modification of the conditions of bail.”

Therefore, only if there appears to be reasonable



ground for believing that the release of the petitioners on bail would bring them in association with the criminals or expose them to moral physical or psychological danger or their release would defeat the ends of justice, the bail shall be denied and reasons for the denial would be recorded. Therefore, it is apparent that the petitioners could be released on bail notwithstanding anything contained in the Code of Criminal Procedure, 1973.

9. Now at the same time, Section 3 of the Juvenile Justice (Care and Protection of Children) Act, 2015, inter alia, provides for the general principles of care and protection of children and are extracted herein below:-

“The Central Government, the State Governments, [the Board, the Committee, or] other agencies, as the case may be, while implementing the provisions of this Act shall be guided by the following fundamental principles, namely:---

(i) Principle of presumption of innocence: Any child shall be presumed to be an innocent of any mala fide or criminal intent up to the age of eighteen years.

(ii) Principle of dignity and worth: All human beings shall be treated with equal dignity and rights.

(iii) Principle of participation: Every child



shall have a right to be heard and to participate in all processes and decisions affecting his interest and the child's views shall be taken into consideration with due regard to the age and maturity of the child.

(iv) Principle of best interest: All decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop full potential.

(v) Principle of family responsibility: The primary responsibility of care, nurture and protection of the child shall be that of the biological family or adoptive or foster parents, as the case may be.

(vi) Principle of safety: All measures shall be taken to ensure that the child is safe and is not subjected to any harm, abuse or maltreatment while in contact with the care and protection system, and thereafter:

(vii).....

(viii) Principle of non-stigmatising semantics: Adversarial or accusatory words are not to be used in the processes pertaining to a child.

(ix).....

(x).....

(xi).....

(xii) Principle of institutionalisation as a measure of last resort: A child shall be



placed in institutional care as a step of last resort after making a reasonable inquiry.

(xiii) Principle of repatriation and restoration: Every child in the juvenile justice system shall have the right to be reunited with his family at the earliest and to be restored to the same socio-economic and cultural status that he was in, before coming under the purview of this Act, unless such restoration and repatriation is not in his best interest.

(xiv).....

(xv).....

(xvi).....”

10. Cumulative reading of these two provisions makes it clear that there is presumption of innocence of a child in conflict with law and all decisions regarding the child shall be based on the primary consideration that they are in the best interest of the child and to help the child to develop full potential. At the same time, all measures will be taken to ensure that the child is safe and is not subjected to any harm, abuse or maltreatment while in contact with the care and protection system, and thereafter. At the same time, the deponent in both the petitions is the father of the petitioners who has also undertaken to take care of the children in conflict with law and also to take further steps for their protection.



11. Considering the interest of the petitioners to be of paramount importance and further finding that keeping the children in observation home may not serve the purpose of their reformation, this court is of the view that for the best interest of the children, they could be released on bail on submission of affidavit of due undertaking by the father of the petitioners for taking good care of the children in conflict with law and for protection, both physical and mental, of the child before the learned Juvenile Justice Board. Accordingly, the petitioners/children in conflict with law shall be released on bail, on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Saran at Chapra/ concerned court in connection with J.J.B. No. 1187 2024, arising out of Dighwara P.S. Case No. 327 of 2024, subject to the following conditions:

(i) The father of the children in conflict with law shall furnish an undertaking before the learned Juvenile Justice Board that he will take care of the children in conflict with law and will keep them in safe custody and produce them before the learned Juvenile



Justice Board as and when required.

12. Accordingly, the judgments dated 24.04.2025 and 27.05.2025 passed by the First Additional Sessions Judge -cum- Children Court, Saran at Chapra and orders dated 25.02.2025 passed by the learned Juvenile Justice Board, Saran at Chapra are set aside and both the revision petitions are allowed.

(Arun Kumar Jha, J)

DKS/-

AFR/NAFR	NAFR
CAV DATE	NA
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