

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.622 of 2024

Arising Out of PS. Case No.-301 Year-2023 Thana- PHULWARIYA District- Gopalganj

Akhilesh Kumar Son of Dhroop Bhagat @ Dhruop Bhagat R/O Khirya, P.s.- Bhorey, Dist.- Gopalganj. Under the Guardianship of His Mother namely Sumitra Devi wife of Dhroop Bhagat @ Dhruop Bhagat.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Dubey

For the Respondent/s : Mr. Binod Kumar

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

9 24-07-2025 This is an application under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 filed on behalf of a Juvenile aged about 14 years through is mother, namely, Sumitra Devi, challenging an order passed in Criminal Appeal No. 59/2023 by the learned Additional Sessions Judge 1st Court at Gopalganj against the order dated 08th November 2023 passed by the Juvenile Justice Board, Gopalganj. By passing the impugned order, the trial court rejected the prayer for bail of the CiCL and dismissed the appeal confirming the order passed by the Juvenile Justice Board, Gopalganj.

2. It is pertinent to note that Phulwariya P.S. Case No. 301/2023 was registered under Sections 302/120B/34 of the IPC against the CiCL on the death of one Aryan Kumar, a student of Class Nursery in New Gyan Lok Competition School situated at Majirawan. As per the statement of the informant, who is the



grandfather of the deceased, the maternal uncle of the deceased received a phone call from school that the deceased received bodily injury in course of a mutual fighting between the students and he had been sent to Fathua Hospital for medical treatment. The informant rushed to the hospital and found the dead body of the victim lying in the hospital in an unattended condition and there were no teachers or non teaching staffs of the school. Initially, the FIR was lodged against the Principle and some other teachers of the said school. On the basis of the said *Fardbeyan*, police registered FIR bearing P.S. Case No. 301 of 2023 and took up the case for investigation. During investigation, it was ascertained that the deceased and the CiCL, on the date and time of occurrence went to the roof of the school, thereafter, his dead body was found with lacerated wound on her head, face and other parts of body as well as marks of throttling. During investigation, police recovered blood-stained wearing apparels of the CiCL. The said wearing apparels were sent to the CFSL and report was obtained. The police also seized piece of brick with stain of blood and some hair stuck on it. On the basis of the evidence, the CiCL was apprehended and charge sheet was submitted against him. The case is at present, at the stage of trial and except the official



witnesses all the witnesses were examined.

3. From brief narration of the incident as well as the evidence collected by the I.O., at the time of investigation which I have already described, it appears to this Court that the instant case is based on on substantial evidence. There is no eye-witness of the occurrence.

4. Section 3 of the Juvenile Justice (Care and Protection of Children) Act, 2015 lays down general principles to be followed in administration of the Act. The fundamental principles are as follows:-

- “(i) Principle of presumption of innocence:*
- (ii) Principle of dignity and worth*
- (iii) Principle of participation*
- (iv) Principle of best interest*
- (v) Principle of family responsibility*
- (vi) Principle of safety*
- (vii) Positive measures*
- (viii) Principle of non-stigmatising semantics:*
- (ix) Principle of non-waiver of rights*
- (x) Principle of equality and non-discrimination*
- (xi) Principle of right to privacy and confidentiality:*
- (xii) Principle of institutionalisation as a measure of last resort*
- (xiii) Principle of repatriation and restoration*
- (xiv) Principle of fresh start*
- (xv) Principle of diversion*



(xvi) Principles of natural justice”

5. Section 12 of the Juvenile Justice Act, 2015 states that in case of a CiCL, who is apprehended or detained by police or appears or brought before a Board, on the allegation of committing 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 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.

6. Proviso to Section 12 says 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 person's 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.

7. On perusal of the impugned order passed by the appellate court, this Court finds that the bail of the CiCL was rejected and the criminal appeal was dismissed only on the ground that the released is likely to bring the person into



association with any known criminal.

8. Before the commission of alleged offence, the CiCL used to stay in the hostel of the above-named school. The I.O. or the Probation Officer failed to collect any evidence to the effect that the victim was associated with some known criminals prior to the occurrence. The alleged incident is a solidarity incident allegedly committed by the CiCL with a fellow student.

9. It is needless to say that the Juvenile Justice (Care and Protection of Children) Act, 2015 is a socially beneficial legislation for the purpose of reformation of the children in conflict with law. The children in need of care and protection. The Juvenile Justice (Care and Protection of Children) Act, 2015 is required to be administered on the basis of the principle of presumption of innocence. Under Clause (xiii) of Section 3, every child in the Juvenile Justice System shall have the right to be re-united with his family and to be restored to some 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 of the CiCL. Further, the CiCL is in protection home since 20.08.2023.

10. For the reasons stated above, I am inclined to release the above-named petitioner on bail, on furnishing



bail bonds of Rs. 25,000/- (twenty-five thousand) with two sureties of the like amount each, to the satisfaction of the learned Additional Sessions Judge 1st Gopalganj, in connection with Criminal Appeal No. 59 of 2023 arising out of Phulwariya P.S. Case No. 301 of 2023 with the condition that one of the bailors must be either of the parents of the petitioner. It is further directed that, if released on bail, the petitioner shall remain under the care and protection of his parents and under the supervision of the Probation Officer. The Probation Officer is directed to file a quarterly report before the concerned Court regarding the antecedents. If any adverse report is filed, the order of bail shall be cancelled without further reference to the Bench.

11. It is hereby directed that the record of the trial court be returned to the concerned court below forthwith for necessary compliance and further proceedings, if any, in accordance with law.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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