

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.761 of 2024

Arising Out of PS. Case No.-17 Year-2023 Thana- BIRUPUR District- Lakhisarai

Nilesh Kumar @ Madan @ Madhav Kumar @ Madan Kumar, Under of guardianship of Chunchun Singh (Mama of the petitioner) Son of Vinay Singh R/o Village- Ramdiri (Naktitola) Ward No. 8, P.S.- Matihani- District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Ms.Khushi Awadh, Advocate Mr.Rama Shankar Kumar, Advocate Mr.Rohit Kumar, Advocate
For the Respondent/s	:	Mr.Sunil Kr. Pandey, APP

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

8 17-04-2025 1. This is an application under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015, assailing the order passed by the learned Special Judge (Children's Court), Lakhisarai, dated 30th of April 2024, affirming the order of rejection of bail of the CICL passed by the Juvenile Justice Board, Lakhisarai.

2. It is submitted by the learned Advocate for the petitioner that at the relevant point of time, when Birpur P.S. Case No. 17 of 2023 under Sections 147, 148, 149, 302, 307, 326, 120B of the IPC and 27 of the Arms Act was registered, the petitioner was a juvenile having been 17



years 8 months old and therefore his prayer for bail ought to be considered by the Board as well as the Court of Appeal in the touchstone of Section 12 of the JJ Act.

3. It is also contended on behalf of the CICL that he is not named in the FIR. He was booked in connection with this case on the basis of confessional statement made by a co-accused, namely, Prince Kumar which is not admissible in evidence. The petitioner was arrested by police only on the ground that the principal accused, namely, Prince Kumar and the petitioner are cousin brothers and they all live together with their family members in one house under jointness. Therefore, the petitioner was arrested only on suspicion. Police failed to collect any evidence in support of his involvement in the alleged offence. Therefore, he should be released on bail.

4. The learned Advocate on behalf of the State, on the other hand, has produced the case diary. It is also submitted by him that the FIR of the above-named case was lodged by one Raju Kumar against eight named persons and six-seven unknown friends of the principal accused, namely, Prince Kumar. From the confessional statement of Prince



Kumar, the name of the present petitioner came into surface. It is also submitted by the learned Advocate on behalf of the State that on the basis of the said confessional statement by Prince Kumar, the house of the petitioner was searched and two numbers of country-made pistols were recovered from the possession of the petitioner.

4. Under such circumstances, he has opposed the submission made by the learned Advocate for the petitioner.

5. Proviso to Section 12 (1) of the J.J. Act, 2015 makes a general provision to the effect that notwithstanding anything contained in the Cr.P.C., a child in conflict with the law shall 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. Provision to Section 12 (1) of the J.J. Act, 2015 states 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.

7. Indisputably, it is asserted from the submission made by the learned Advocate for the petitioner that the principal accused stays with the petitioner in the same house. They have their common friends who are also involved in committing the offence. Therefore, Board held that if the CICL is released on bail, there is every possibility that the petitioner would come into association with known criminal.

8. The Court of Appeal also concurred with a view subscribed by the JJB at the time of granting bail.

9. On perusal of the case diary, I find with two country made pistols were recovered from the house of the petitioner. There is no explanation as to why two illegal fire-arms were kept in the house of the petitioner. Association of the petitioner with the principal accused is also not denied.

10. It is submitted by the learned Advocate on behalf of the petitioner that if he is released on bail, he



would stay in the house of his maternal uncle. There is no evidence that the said maternal uncle is not accessible by other accused persons. The petitioner is on the verge of majority. He had the knowledge about the consequences of the act of committing murder of the victim.

11. Considering the heinous nature of offence and for the foregoing reasons, I do not find any ground to interfere with the impugned order.

12. Accordingly, the instant criminal revision is dismissed, on contest, however, without costs.

13. The case diary be returned.

(Bibek Chaudhuri, J)

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