

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1000 of 2024

Arising Out of PS. Case No.-502 Year-2022 Thana- KUCHAIKOTE District- Gopalganj

Child in conflict With Law X, aged about 17 years/ Male, Son of Dhananjay Kushwaha @ Dhananjay Bhagat the elder brother namely under the legal guardianship under, Deepak Kumar Kushwaha, Son of Dhananjay Kushwaha, Resident of Village and P.S. - Kuchaikot, District - Gopalganj

... .. Petitioner

Versus

1. The State of Bihar
2. Godhan Manjhi, Son of Vikrama Manjhi, Resident of Village and P.S. - Kuchaikot, District - Gopalganj

... .. Respondents

Appearance :

For the Petitioner	:	Mr. Dharmveer, Advocate
For the Respondent No.2:	:	Mr. Sndeeep Kumar Mandal, Advocate
For the State	:	Mrs. Sharda Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 03-03-2025 Heard learned counsel for the petitioner, learned counsel for the respondent no. 2 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 “Child in conflict with law-X”.

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 for setting aside the order dated 19.10.2024, passed by learned Additional Sessions Judge-Ist, Gopalganj, in Cr. Appeal No. 41 of 2023, arising out of Kuchaitkot P.S. Case No. 502 of 2022, whereby and whereunder the learned Additional Sessions Judge-Ist, Gopalganj, has rejected the regular bail of the petitioner and further for setting aside the order dated 05.07.2023, passed by learned Principal Judge, J.J.Board, Gopalganj, passed in J.E. No. 116 of 2023, whereby and whereunder the learned J.J. Board, Gopalganj has been pleased to rejected the prayer for regular bail of the petitioner registered for the offences punishable under Section 302 read with Section 34 of the I.P.C. and Sections 3(2)(V) of the SC/ST Act.

5. As per the prosecution case, on 18.11.2022 at about 8.00 P.M., the petitioner and the co-accused person alongwith 3-4 unknown boys are alleged to have come to the door of the informant and took away his son, namely, Pankaj, forcibly on the motorcycle and on the next day i.e., 19.11.2022, the dead body of the informant's son was found in a paddy field.

6. Learned counsel for the petitioner submits that the petitioner has falsely been implicated in the present case. It is



submitted that the alleged date of occurrence is between 18.11.2022 to 19.11.2022 and the F.I.R. has been lodged on 21.11.2022 and the delay in lodging of the F.I.R. has not been explained by the prosecution. There is no specific allegation against the petitioner that he alongwith the co-accused Bullet Sah and 3-4 unknown took the son of the informant on the motorcycle. It is a case of last seen. It is further submitted that except the informant, no other witness has seen the deceased going with the petitioner and the other co-accused persons. There is no eye witness to the alleged offence. It is further submitted that the real fact is that the deceased was alcoholic and drug addict and due to overdose of the drugs and smacks, the deceased has fell in the water in the paddy field and has died. The petitioner has been declared juvenile by the learned Juvenile Justice Board. The charge sheet has been submitted for the offence under Section 302 read with Section 34 of the I.P.C. against the petitioner and investigation against the other co-accused persons is going on. It is further submitted that the mother of the petitioner is an old lady and she is unable to move and the father of the petitioner has performed second marriage with another lady and he is residing with his new wife and left the petitioner, hence, he is living with his elder brother who is at



present his legal guardian. It is further submitted that other co-accused person, namely, Bullet Sah, has already been granted bail by a Bench of this Court vide Cr. Appeal (SJ) No. 130 of 2024 under order dated 20.06.2024, annexed as Annexure-4 to the present criminal revision application. The petitioner has clean 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 elder brother 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 10.04.2023.

7. Learned A.P.P. for the State and learned counsel for the informant have 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 19.10.2024, passed by learned Additional Sessions Judge-Ist, Gopalganj in Cr. Appeal No. 41 of 2023, arising out of Kuchaikot P.S. Case No. 502 of 2022, as well as the order dated 05.07.2023, passed by learned Principal Judge, Juvenile Justice Board, (J.J.B.), Gopalganj, in J.E. No. 116 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 elder brother 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 Principal Judge, J.J. Board, Gopalganj in connection with Kuchaikot P.S. Case No. 502 of 2022, subject to the following conditions:-

- (i) Natural guardian/elder brother 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 elder brother will ensure that the juvenile will not repeat the offence.

(ii) Natural guardian/elder brother 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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