

**IN THE COURT OF ADDL. DISTRICT & SESS. JUDGE-I cum SPECIAL JUDGE,
KAIMUR AT BHABHUA**

IA No. 01/2021 A.C. Trial - 05 / 2021

KARAMCHAT P. S. CASE NO. 21 / 2021

STATE Vs. LAXMAN PASWAN & OTHERS

20/09/21 Present Sri Sanjay Kumar Upadhaya, Ld. counsel on behalf of the petitioner and learned Spl. P. P. for the State.

ORDER

The present bail petition is filed on behalf of the accused namely, Om Prakash Paswan who is in custody since 08.04.2021 in connection with Karamchat P.S. Case No. 21 of 2021 filed U/ss. 302, 120(B) of IPC & Section 27 of the Arms Act. It is submitted on behalf of the petitioner that no regular or anticipatory bail application has ever been filed or is pending either in this court or in any superior court and that the petitioner has no criminal antecedents. Both the assertions have been affirmed by the Ld. Spl.P.P.

The prosecution story, in brief, is that about six months prior to the date of incident the son of a co-accused Laxman Paswan(brother of the present petitioner) was murdered and the husband of the informant was implicated in that case with respect to the alleged incident of murder. The co-accused Laxman Paswan and his wife Indu Devi were exerting pressure on the police to get the husband of the informant arrested. In this respect, the co-accused Laxman Paswan and his wife had on several previous occasions came to the doorsteps of the informant to abuse and threaten her. It is alleged that on 06.04.2021 at about 6:35 PM while the informant was going along with her husband on a motorcycle and stopped near Sabarchauk Bazar to have eatables and no sooner did they stop that the petitioner along with three unknown persons with masked face came and attack the husband of the informant by firing at him. As a result of the attack, the husband of the informant got an injured and was taken to the hospital and was declared brought dead. The informant has alleged that the husband has been killed in pursuance to a conspiracy entered into between the co-accused Laxman Paswan, Indu Devi and their other family members including the petitioner.

The Ld. Counsel on behalf of the petitioner has prayed for the grant of bail on the ground that the allegations levelled against the petitioner are false and fabricated. That the petitioner has been implicated in this case merely on the basis that he is a family member of the accused Laxman Paswan. The petitioner is a child of 17 years who has nothing to do with the alleged crime. It is submitted that the petitioner has been found to be a juvenile in conflict with law by the order dated 06.08.2021 passed by the learned J.J.B. and the case of the petitioner has been sent to this court under Section 18(3) of the Juvenile Justice (Care and Protection of Children) Act, 2015 for trial in accordance with law. The provisions of Juvenile Justice Act are therefore, applicable to the case and no ground for rejection of bail mentioned in Section 12 of the Act is applicable to the facts and circumstances of the present case. Even in the investigation, no evidence has been found against the petitioner. The co-accused in their confessional statement have not named the petitioner to have been involved in the commission of the crime. There is no recovery from the possession of the petitioner and hence, the allegations under IPC or Arms Act are not made out against the petitioner.

Contd.. The learned Spl P. P. opposed the bail petition on the ground of nature and gravity of
20.09.21 the offence alleged.

In the interest of justice, the probation officer report was called for. The perused of the report shows that probation officer has reported the petitioner to be a student studying in class eight. The majority of his friends are of the same age group and sex having no criminal antecedents. He is reported to be having cordial relations with his family members and is found to be having extra curricular interests as well. He is reportedly having no criminal antecedents. It is recommended that the education of the petitioner be not disturbed and the petitioner be provided with proper moral and social environment.

Considering the entire material available on the record, submission advanced by the counsels and the report of the Probation Officer in the light of facts and circumstances of the case, the court is of the view that the denial of the bail would result in disrupting the education of the petitioner which is neither in the interest of the petitioner nor would be in the interest of justice. Moreover, there is no adverse finding reported against the petitioner in the probation report. The court finds it proper to enlarge the petitioner on bail bond of Rs.10,000/- with two sureties of like amount each subject to the condition that one of the bailors shall be the parents of the petitioner who shall file an affidavit to the effect stating that he/she would take proper care of the petitioner and would ensure that the education of the petitioner is not disturb and he does not get into a company of persons with criminal mindsets and would further undertake to produce him in the court as when the interest of justice would so require. The office is directed to accept the bail bonds complying with the social distancing norms given by the Government and the Hon'ble Court.(Dictated)

Sd/-
Spl. Judge
Kaimur at Bhabua

