

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Appeal (DB) No.195 of 2014**

Arising Out of PS.Case No. -12 Year- 2009 Thana -BIHPUR District- BHAGALPUR

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1. Chandan Kumar @ Chandan Choudhary Son Of Sri Bhul Choudhary  
Resident Of Village- Jairampur, P.S. Bihpur, District- Bhagalpur

.... .... Appellant/s

Versus

1. The State Of Bihar

.... .... Respondent/s

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**Appearance :**

For the Appellant/s : M/S Ajay Kumar Thakur & Md. Imtayaz  
Ahmad, Amit Kumar & Ravi Ranjan

For the Respondent/s : Mr. S.N.Prasad(A.P.P.)

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**CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD  
SINGH**

**and**

**HONOURABLE JUSTICE SMT. NILU AGRAWAL**

**ORAL ORDER**

**(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)**

12 16-12-2015

I.A.No. 527 of 2015 was filed on behalf of the sole appellant, who has been convicted under section 302/34 of the Indian Penal Code and sentenced to life imprisonment, claiming to be a juvenile. It appears that pursuant to the said application, by order dated 11-8-2015 the matter was referred to the Juvenile Justice Board, Bhagalpur, to enquire as to the age of the appellant at the time the offence is said to have been committed. The Juvenile Justice Board, Bhagalpur, through the District and Sessions Judge, Bhagalpur, has sent its report holding that, as per the documents of the School last attended, which were proved before it, the appellant was a minor. His date of birth being 25-1-1994, at the time of occurrence he would be 14 years 11 months and 17 days and at the time of judgment under Appeal he would be 20 years.

2.Considering the provisions of the Juvenile Justice(Care and Protection of Children) Act,2000, no juvenile in conflict with law can be tried in any court nor he be sentenced to imprisonment, much less life imprisonment.

3. Accordingly, in view of the report of the Juvenile Justice Board, we are left with no option but to hold that the trial and conviction of the appellant was wholly without jurisdiction. They are both, accordingly, set aside.

4. However, the matter does not end there. The matter would now be dealt with by the Juvenile Justice Board in accordance with law. However, the appellant cannot be detained in custody even for a moment.

5. While setting aside the judgment of conviction and sentence, we direct that the entire matter now be placed before the Juvenile Justice Board for its consideration as to how it would proceed in the matter. Let the records be transmitted to Juvenile Justice Board, Bhagalpur.

6. The Appeal is, accordingly, allowed.

**(Navaniti Prasad Singh, J)**

B.K.Roy/-

**(Nilu Agrawal, J)**

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