

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.248 of 2016

Arising out of P.S. Case No. 166 Year 2015 Thana Bairiya, District- WEST CHAMPARAN
(BETTIAH)

=====
Kanhaiya Kumar, son of late Mohit Sahni, through his mother and guardian
Rajmati Devi, wife of Late Mohit Sahni, resident of village-Santghat, P.S.- Bairiya,
District- West Champaran.

.... Petitioner

Versus

1. The State of Bihar.
2. Shashibhushan Ram, son of Sri Umakant Ram, resident of village- Bhatwalia,
P.S.- Bairiya, District- West Champaran.

.... Respondent

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Appearance :

For the Petitioner : Mr. Umesh Chandra Verma, Advocate.

For the State : Mr. Nagendra Prasad, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 03-10-2016

Heard learned counsel for the petitioner and learned
counsel for the State.

2. This revision application under Section 53 of the
Juvenile Justice (Care and Protection of Children) Act, 2000 (For
short 'the Act of 2000') has been filed for setting aside the order
dated 1st February, 2016 passed in Cr. Appeal No. (Juvenile) No. 01
of 2016 by the learned Sessions Judge, West Champaran Bettiah,
affirming the order dated 23.12.2015 passed by the Juvenile Justice
Board, West Champaran, Bettiah, in Juvenile Justice Board Trial No.
473 of 2015 arising out of Bairiya P.S. Case No. 166 of 2015
registered under Section 384 of the Indian Penal Code.



3. It is contended that the petitioner is neither named in the First Information Report nor any incriminating article was recovered from his possession. However, in course of investigation of the case, he was apprehended merely on suspicion. By order dated 22.6.2015, the Juvenile Justice Board, Bettiah, West Champaran, declared him a juvenile in conflict with law and since then he is in the Observation Home at Motihari, East Champaran. It is submitted that the application for bail of the petitioner was rejected by the Juvenile Justice Board, Bettiah, West Champaran, on the ground that his release would bring him into association with known criminals or expose him to moral, physical or psychological danger. The Appellate Court also rejected his application on the ground that his release would defeat the ends of justice and would have an adverse affect on his mental and psychological growth. It has further been contended that the opinion formed by the Juvenile Justice Board and the Appellate Court in respect of the petitioner was without having any social investigation report from the Probation Officer.

4. On the other hand, learned counsel for the State has submitted that while confining the petitioner in Observation Home, he has twice fled away from there, and, hence, he does not deserve bail.

5. I have heard learned counsel for the petitioner and the learned counsel for the State. Admittedly, there was neither any



social investigation report of the Probation Officer nor of any other authority in respect of the character and social background of the petitioner. In that view of the matter, in my opinion, the formation of opinion by the Appellate Court and the Juvenile Justice Board in respect of the petitioner was only on suspicion and hypothetical presumption. Even otherwise, the enquiry has not been completed within the period prescribed under the proviso to Section 14 of the Juvenile Justice Act, 2000.

6. In that view of the matter, I set aside the impugned Judgment and order dated 1st February, 2016 passed by the learned Sessions Judge, West Champaran, Bettiah, in Cr. Appeal (Juvenile) No. 01 of 2016 and the order dated 23.12.2015 passed by the Juvenile Justice Board, West Champaran, Bettiah, in Juvenile Justice Board Trial No. 473 of 2015 arising out of Bairiya P.S. Case No. 166 of 2015. The petitioner is directed to be released on bail on furnishing an affidavit by his mother that she would look after the interest of the petitioner and would not allow him to fall in bad company. In addition to the affidavit, the mother of the petitioner would also be required to furnish a personal bond of Rs.10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of the Juvenile Justice Board, West Champaran, Bettiah, in Juvenile Justice Board Trial No. 473 of 2015 arising out of Biriya P.S. Case No. 166 of 2015.

On furnishing of such affidavit, bond and sureties, the petitioner shall be released on bail forthwith.

7. The revision application stands allowed.

(Ashwani Kumar Singh, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	05.10.2016
Transmission Date	05.10.2016