

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.58 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null District- EAST CHAMPARAN
(MOTIHARI)

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Seraj Ansari through his father and guardian Jumarati @ Md. Jumarati Ansari
Resident of Village - Sarottar, P.S. - Dumariyaghat, District - East Champaran
.... Petitioner

Versus

The State of Bihar Respondent

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma, Advocate
For the Respondent/s : Mr. Suresh Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 20-07-2016

The present Criminal Revision application under Section 53 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (For short 'JJ Act') has been filed for setting aside the order dated 27th November, 2015 passed by the learned Sessions Judge, East Champaran, Motihari in Cr. Appeal No. 124 of 2015 affirming the order dated 30.10.2015 passed by the learned Principal Magistrate, Juvenile Justice Board, East Champaran, Motihari in J.J.B. Trial No. 912 of 2015 arising out of Ghorasahan (Jitna) P.S. Case No. 271 of 2015 registered under Sections 413 and 414/34 of the Indian Penal Code whereby the prayer for bail made on behalf of the petitioner has been rejected.

2. It is contended that the petitioner is not named in the FIR. His name transpired during course of investigation on the

basis of confession of a co-accused. He was arrested on 31st July, 2015 and, since then, he is lodged in Observation Home at Motihari. The Juvenile Justice Board, Motihari assessed the age of the petitioner after holding an appropriate inquiry as 17 years 10 months and 20 days on the alleged date of occurrence vide order dated 10.10.2015.

3. It is contended that as per provisions of Section 12 of the JJ Act, a juvenile is entitled to be granted bail irrespective of the nature of offence committed by him, unless it is shown that there appears reasonable ground for believing that his release is likely to bring him under influence of any criminal or expose him to moral danger or would defeat the ends of justice.

4. It has been submitted that though in the impugned order, the learned Sessions Judge, East Champaran at Motihari has observed that if released on bail, the petitioner is likely to fall in association with known criminal, for arriving at such a conclusion, no material was there before the learned Sessions Judge.

5. Learned counsel for the State has opposed the application for grant of bail to the petitioner. He has submitted that there is no infirmity in the order passed by the appellate court.

6. I have heard respective counsel for the parties and perused the record.

7. I find substance in the arguments made by the learned counsel for the petitioner. It appears that the learned Sessions Judge Motihari has mechanically rejected the application for bail by making sweeping observation that if released on bail, the petitioner is likely to fall in company of known criminals. Neither any report was called for from the probation officer nor was there any material before the learned Sessions Judge for arriving at such a conclusion.

8. Regard being had to the facts and circumstances of the case, the impugned order dated 27th November, 2015 passed in Cr. Appeal No. 124 of 2015 by the learned Sessions Judge, East Champaran, Motihari, affirming the order dated 30.10.2015 passed by the learned Principal Magistrate, Juvenile Justice Board, East Champaran, Motihari, is set aside. The petitioner is directed to be released on furnishing bond and sureties to the satisfaction of Juvenile Justice Board, East Champaran, Motihari in connection with Ghorasahan (Jitna) P.S. Case No. 271 of 2015.

9. The application stands allowed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	
CAV DATE	
Uploading Date	23.7.16
Transmission Date	23.7.16