

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.188 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null District- KATIHAR

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Rahul Chaudhary @ Rahul Kumar Choudhary, son of Rajesh Chaudhary, resident of village-Manihari Hat, P.S.-Manihari, District-Katihar under the guardianship of his father namely, Rajesh Chaudhary.

.... Petitioner

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Bimal Kumar, Advocate

For the Respondent/s : Mr. Sadanand Paswan, Spl. P.P.

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 19-08-2016

This revision application under Section 53 of the Juvenile Justice (Care & Protection of Children) Act, 2000 (For short 'the Act of 2000') is directed against the order dated 14.01.2016 passed by the learned Additional Sessions Judge-I-cum-Special Judge, Katihar in Cr. Appeal No. 35 of 2015 by which he has dismissed the appeal filed by the petitioner against the order dated 10.11.2015 passed by the learned Principal Magistrate, Juvenile Justice Board, Katihar by which he has rejected the prayer for bail of the petitioner in G.R. Case No. 1647 of 2015 arising out of Manihari P.S. Case No. 74 of 2015 dated 21.06.2015

registered under Sections 376/34 of the Indian Penal Code, Section 4 of the Protection of Children from Sexual Offences Act and 3(w)(1)(2)(v) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act.

2. The petitioner was apprehended in the said case on 1st September, 2015 and was remanded to judicial custody. By order dated 09.11.2015, the Juvenile Justice Board, Katihar declared him a juvenile in conflict with law. His application for bail was rejected by the Juvenile Justice Board, Katihar vide order dated 10.11.2015 on the ground that his release on bail may bring him into association with known criminal or expose him to moral, physical or psychological danger. The aforesaid order dated 10.11.2015 was challenged in appeal under Section 52 of the Act of 2000. After hearing the parties, the appellate court also rejected his appeal on the ground that his release would bring him into association with any known criminal or expose him to moral, physical or psychological danger or his release would defeat the ends of justice.

3. It is submitted that the aforesaid opinion has been formed by the Juvenile Justice Board and the appellate court without there being any material in this regard before them.

4. *Per contra*, learned counsel for the State submits that the victim was a minor girl aged about 15 years and at the

relevant time, the petitioner was aged about 16 years. He has committed a heinous offence and the appellate court has rightly rejected his application for bail.

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

6. It would be evident from the impugned order passed by the court below that though the appellate court and the Juvenile Justice Board have reiterated the language of Section 12(1) of the Act of 2000 and rejected the bail application of the petitioner, but there were neither any social investigation report of the Probation Officer nor of any other authority in this regard. The opinion has been formed by the Board and the court merely on conjecture, surmises and guess work.

7. In my opinion, formation of an opinion that if released on bail, the petitioner may fall in bad company of known criminals or defeat the ends of justice cannot be made on wild suspicion and hypothetical presumption. This is not the right approach to make opinion while construing Section 12 of the Act of 2000.

8. As noted above, the petitioner is in observation home since 01.09.2015, but the inquiry has yet not commenced. The proviso to Section 14 of the Act of 2000 contemplates that an



inquiry under this Section in case of a juvenile should be completed within a period of four months from the date of its commencement, unless the period is extended by the Board having regard to the circumstances of the case and in special cases after recording the reasons in writing for such extension. When the Act itself contemplates for a speedy inquiry, a person cannot be kept in the observation home for an indefinite period even without commencement of an inquiry by the Juvenile Justice Board.

9. In that view of the matter, I set aside the impugned judgment and order dated 14.01.2016 passed by the learned Additional Sessions Judge-I-cum-Special Judge, Katihar in Cr. Appeal No. 35 of 2015 and the order dated 10.11.2015 passed by the learned Principal Magistrate, Juvenile Justice Board, Katihar in G.R. Case No. 1647 of 2015 arising out of Manihari P.S. Case No. 74 of 2015. The petitioner is directed to be released on bail on furnishing an affidavit by his father that he would look after the interest of the petitioner and would not allow him to fall in bad company. In addition to the affidavit, the father 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, Katihar in Manihari P.S. Case No. 74 of 2015. On furnishing of such affidavit, bond and

sureties, the petitioner shall be released on bail.

10. The revision application stands allowed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	-----
Uploading Date	23.08.2016
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