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IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.730 of 2015

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

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Ashok Yadav @ Ashok Kumar Yadav son of Doman Yadav, resident of village - Kanchanbagh, P.S. - Hussainabad, District - Palamu under the guardianship of his father namely, Doman Yadav.

.... Petitioner/s

Versus

The State of Bihar .... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Kamlesh Kumar Pathak, Advocate.

For the Respondent/s : Mr. Nand Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 19-07-2016

Pursuant to the order dated 18.4.2016 passed by this Court, the Principal Magistrate and the members of the Juvenile Justice Board have submitted their explanation vide letter no.98 of 2016. The explanation submitted by them is accepted. It is expected that in future they would be more attentive in complying with the order passed by this Court.

2. The present application under Section 53 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short 'J.J. Act') has been filed against the order dated 23.7.2015 passed by the learned Sessions Judge, Aurangabad in Cr. Appeal No.50 of 2015 whereby the appeal against the order dated 22.6.2015 passed by the

Juvenile Justice Board (for short 'J.J. Board'), Aurangabad in Nabinagar P.S. Case No.180 of 2013, has been dismissed and the order passed by the J.J. Board refusing the prayer for bail of the petitioner has been affirmed.

3. The petitioner has been made accused in a case registered under Sections 302/34 and 201/34 of the Indian Penal Code (for short 'IPC'). The name of the petitioner transpired during the investigation on the basis of confession made by a co-accused. It would be evident from the order dated 26.2.2015 passed by the J.J. Board, Aurangabad, as contained in Annexure-2 to the present revision application that on the date of occurrence the age of the petitioner was assessed to be 17 years, 7 months and 19 days. By the aforesaid order, he was declared juvenile in conflict with law. The prayer for bail of the petitioner was rejected by the J.J. Board on 22.6.2015 on the ground that the petitioner has been made accused in connection with a serious criminal case. The appellate court has dismissed the appeal on the ground of seriousness of the offence as also taking into consideration the fact that the petitioner has been made accused in some other cases too. In view of the fact that the petitioner has been made accused in some other cases, the appellate court has observed that the petitioner has criminal history behind him and he is in contact with criminals and, thus, he is not under good guardianship and if released on bail,

there is possibility that he will again come into the association of criminals and commit serious offence and that will expose him to moral, physical and psychological danger.

4. It has been contended by the learned counsel for the petitioner that the petitioner is in custody since 15.10.2014 and is being kept in District Jail, Aurangabad. In support of his submission, he has relied upon the Vakalatnama executed by the petitioner, which has been authenticated and attested by the Deputy Superintendent, District Jail, Aurangabad. However, on perusal of the order dated 22.6.2015 passed by the J.J.Board, it would be evident that the custody of the petitioner in Aurangabad jail is on the basis of some other case which might have been instituted against him on attaining majority. Earlier, the petitioner was kept in observation home at Gaya.

5. However, I find from the record that the name of the petitioner transpired on the basis of confession of co-accused. He is in custody since 15.10.2014 and there is no likelihood of conclusion of inquiry in near future. A juvenile in conflict with law cannot be detained for an indefinite period.

6. In that view of the matter, the application is allowed. The impugned order dated 23.7.2015 passed by the learned Sessions Judge, Aurangabad, Bihar, affirming the order dated 22.6.2015 passed by the J.J. Board is set aside. The petitioner is directed to be released

on bail on furnishing bond and sureties to the satisfaction of J.J. Board, Aurangabad in connection with Nabinagar P.S. Case No.180 of 2013.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
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