

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.24 of 2016

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

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Rohit @ Mannu Son of Late Gopal Rai, resident of Village- Sherpur, Narayanpur, P.S.- Sadar, District- Muzaffarpur. [Mamta Devi (mother & natural guardian of the petitioner) w/o Late Gopal Rai, resident of Village- Sherpur, Narayanpur, P.S.- Sadar, District- Muzaffarpur]

.... Petitioner

Versus

The State of Bihar

.... Respondent

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Appearance :

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

For the Respondent/s : Mr. P. N. Pandit, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 20-07-2016

By the present application under Section 53 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short 'JJ Act'), the petitioner has sought for setting aside the order dated 30.09.2015 passed by the learned Sessions Judge, Muzaffarpur in Cr. Appeal No. 85 of 2015, whereby the appeal preferred under Section 52 of the JJ Act against the order dated 02.09.2015 passed by the Juvenile Justice Board, Muzaffarpur in Sadar P. S. Case No. 33 of 2012 registered under Section 364-A of the Indian Penal Code has been dismissed and the prayer for bail of the petitioner in connection with the said case has been rejected.



2. It is contended on behalf of the petitioner that the impugned order passed by the court below is erroneous in law, as the object behind the JJ Act has not been properly considered while passing the impugned order. It is further contended that the petitioner is in custody since 13.05.2015 and being not named in the FIR, he has been dragged in this case only due to previous enmity and grudge. His age has been determined as 15 years, 10 months and 29 days on the date of occurrence vide order dated 25.07.2015 passed by the Juvenile Justice Board, Muzaffarpur, as his date of birth is 04.03.1996.

3. Learned counsel for the State has opposed the application for grant of bail to the petitioner.

4. Having heard respective counsel for the parties and carefully perused the record, I find that the impugned order has been passed mechanically by the learned Sessions Judge without application of judicial mind. The observation in the impugned order that the release of the petitioner on bail would expose him to moral, physical or psychological danger or that his release would defeat the ends of justice is not based on any report of the Probation Officer. It seems that without adverting to the grounds mentioned under Section 12(1) of the JJ Act for rejection of bail of a juvenile, the appellate court has mechanically incorporated in the order that

the release of the petitioner on bail would expose him to danger or that his release would defeat the ends of justice to reject the bail application of the petitioner. Even otherwise, it would not be in the interest of justice to keep a juvenile in conflict with law in custody for an indefinite period.

5. In that view of the matter, the impugned order dated 30.09.2015 passed by the learned Sessions Judge, Muzaffarpur in Cr. Appeal No. 85 of 2015 affirming the order dated 02.09.2015 passed by the Juvenile Justice Board, Muzaffarpur in Sadar P. S. Case No. 33 of 2012 is hereby set aside. The petitioner is directed to be released on bail on furnishing bond and sureties to the satisfaction of Juvenile Justice Board, Muzaffarpur in connection with Sadar P. S. Case No. 33 of 2012.

6. The application stands allowed.

(Ashwani Kumar Singh, J.)

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