

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.455 of 2015

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

1. Shamim Akhtar S/o Mahfooj Alam Resident of Village Islampur, P.S. Nanpur,
District Sitamarhi residing under guardianship of his father namely Mahfooj Alam.

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Devendra Kumar, Adv.

For the Respondent/s : Mr. U.S.P. Singh, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 19-07-2016

This revision application under Section 53 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short 'J.J. Act') is directed against the order dated 18th April, 2015 passed by the learned 3rd Additional Sessions Judge, Sitamarhi in Cr.Appeal No. 09 of 2015/ 02 of 2015, whereby the appellate court has affirmed the order dated 25th July, 2014 passed by the Juvenile Justice Board, Sitamarhi and has refused to release the petitioner on bail.

2. It is contended by the learned counsel for the petitioner that the petitioner has already been declared juvenile vide order dated 10th July, 2012 passed by the Juvenile Justice Board, Sitamarhi. However, his application for bail was rejected by the Juvenile Justice



Board on the ground of his involvement in several cases. The appellate court rejected his application taking into consideration the fact that while being in Observation Home he had made an attempt to escape from the Observation Home on 3rd October, 2012 as also that the release of the appellant may bring him into association with known criminals or expose to moral physical or psychological danger.

3. It is contended that the aforesaid observation of the appellate court is not based on any report of the probation officer. It is also submitted that though the petitioner has been declared juvenile in conflict with law, he has been kept in the Divisional Jail, Sitamarhi, which is totally against the mandate of law. In support of his submission he has impressed upon the Court that the *vakalatnama* executed by the petitioner has duly been authenticated by the Jail Authority of the Divisional Jail, Sitamarhi on 02.05.2015.

4. *Per contra*, learned counsel for the State has supported the impugned order passed by the appellate court refusing the prayer for bail of the petitioner. He has submitted that the petitioner is involved in several cases and, therefore, the court has rightly observed that his release from jail is likely to bring him into association with other co-accused of the case in which he is involved.

5. I have heard respective counsel for the parties and

perused the record.

6. It would be apparent from the vakalatnama filed along with this application that the petitioner is confined in the Divisional Jail, Sitamarhi as the Assistant Jail Superintendent of the Divisional Jail, Sitamarhi has authenticated and attested his LTI on 02.05.2015. There is no dispute to the fact that the petitioner has been declared juvenile and is in custody since 12th May, 2014 in connection with Pupri P.S.Case No. 02 of 2012 corresponding to Juvenile Justice Board Case No. 632 of 2014 registered under Section 392 of the Indian Penal Code. There is no report of the Probation Officer in respect of the petitioner. The finding of the appellate court is not based on any sound reasoning.

7. Moreover, a juvenile in conflict with law can either be kept in the Observation Home or at a place of safety but in no case he can be lodged in jail. The detention of a juvenile in jail is wholly illegal and cannot be justified.

8. Accordingly, the impugned order dated 18.04.2015 passed by the learned 3rd Additional Sessions Judge, Sitamarhi in Cr.Appeal No. 09 of 2015/ 02 of 2015, affirming the order dated 25.07.2014 passed by the Juvenile Justice Board, Sitamarhi is set aside. The petitioner is directed to be released on furnishing bond and sureties to the satisfaction of Juvenile Justice Board, Sitamarhi in

connection with Pupri P. S. Case No. 02 of 2012.

9. The application stands allowed.

(Ashwani Kumar Singh, J)

Pradeep/-

AFR/NAFR	
CAV DATE	
Uploading Date	20.7.2016
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