

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.676 of 2016

Arising Out of PS.Case No. – 222 Year- 2014 Thana - Baikunthpur District-
GOPALGANJ

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Sanjay Rai S/o Shiv Pujan Rai, resident of Village- Karmsheela, P.S.- Baikunthpur,
District Gopalganj (under the Natural Guardianship of Maternal Uncle(Mama),
Budhan Rai, son of Shivpujan Rai, resident of 24 Chakhan, P.S.- Isuapur, District-
Saran.

.... Petitioner

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Pankaj Kumar Das, Advocate

For the Respondent/s : Mr. Mayanand Jha, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 28-10-2016

Learned counsel for the petitioner is permitted to make
necessary correction in the provision of law under which the
application is filed in the course of the day.

2. This revision application under Section 102 of
the Juvenile Justice (Care & Protection of Children) Act, 2000 (for
short 'the Act') is directed against the order dated 30.04.2016
passed by the learned District and Sessions Judge, Gopalganj in Cr.
Appeal No. 12 of 2016 by which he has dismissed the appeal filed
by the petitioner against the order dated 01.12.2015 passed by the

learned Principal Magistrate, Juvenile Justice Board, Gopalganj in J. E. No. 13 of 2015 by which he has rejected the prayer for bail of the petitioner in Baikunthpur P. S. Case No. 222 of 2014.

3. The petitioner, admittedly, a juvenile in conflict with law, is lodged in Observation Home since 19.01.2015 in connection with Baikunthpur P. S. Case No. 222 of 2014 registered under Sections 341, 323 and 302/34 of the Indian Penal Code. The allegation made in the FIR is that on 4th December, 2014 at about 11 a.m. when the informant forbade the petitioner from cutting a branch of black berry tree, he became angry and started beating the informant. In the meantime, her husband came in rescue but altogether seven accused persons named in the FIR, including the petitioner assaulted him as a result of which he died on the spot.

4. It is contended by the learned counsel for the petitioner that six out of seven accused persons named in the FIR belong to one family and in the post-mortem report the doctor has found only two injuries on the person of the deceased. It is further contended that no deadly weapon is alleged to have been used in commission of the crime and the alleged offence took place as a result of sudden provocation. It is further contended that the petitioner was never involved in the crime. His name has been given in the FIR only because he belongs to the family of the other

accused persons. It is also contended that the petitioner having no criminal antecedent, has got roots in the society and is not likely to abscond in case he is released on bail.

5. *Per contra*, learned counsel for the State has submitted that though the petitioner has been declared a juvenile in conflict with law, the offence alleged is quite serious and, in case, he is released on bail, there is every likelihood that he may fall in bad company.

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

7. The Juvenile Justice Board and the appellate court have rejected the application for grant of bail of the petitioner on the ground that the release of the petitioner is likely to expose him to moral, physical and psychological danger and it would also defeat the ends of justice. However, from perusal of the materials on record, it would be evident that prior to coming to such a finding, neither the Juvenile Justice Board nor the appellate court has called for any social investigation report in respect of the petitioner from the Probation Officer or any other authority. In absence of social investigation report in respect of the petitioner, this Court is of the view that findings recorded by the courts below are not based on any cogent material. Further, courts below have



not taken into consideration the provisions prescribed under Section 14 of the Act which mandates that where a juvenile having been charged with the offence is produced before a Board, the Board is required to hold inquiry in accordance with the provisions of the Act and pass such order in relation to the juvenile as it deems fit within a period of four months.

8. It is true that proviso to Section 14 of the Act gives liberty to the Board to extend the period of inquiry in case it is not completed within a period of four months but such extension can be granted by the Board only in special circumstances after recording the reasons in writing for such extension. Apparently, the inquiry has not been completed in the present case despite lapse of over 22 months and the period of inquiry has also not been extended by passing any order by the Board.

9. Keeping in mind the nature of the offence, the statutory provisions prescribed under Section 14 of the Act and the period undergone by the petitioner in custody, I set aside the impugned judgment dated 30.04.2016 passed by the learned District and Sessions Judge, Gopalganj in Cr. Appeal No. 12 of 2016 and the order dated order dated 01.12.2015 passed by the learned Principal Magistrate, Juvenile Justice Board, Gopalganj in J. E. No. 13 of 2015.

10. Consequently, 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, Gopalganj in connection with Baikunthpur P. S. Case No. 222 of 2014. On furnishing of such affidavit, bond and sureties, the petitioner shall be released on bail.

11. The revision application stands allowed.

(Ashwani Kumar Singh, J.)

Kanchan/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	30-10-2016
Transmission Date	30-10-2016