

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.859 of 2016

Arising out of P.S. Case No. 27 Year 2016 Thana Roh District- NAWADA

Subham Kumar @ Shubham Kumar, son of Krishna Murari, resident of village- Dumari, P.S.- Pakribarawan, District- Nawada, through his father and natural Guardian Krishna Murari, son of Weni singh Prasad, resident of village- Dumari, P.S.- Pakribarawan, District- Nawada

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

Appearance :

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

For the State : None.

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 04-10-2016

This revision application under Section 53 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (For short 'the Act of 2000') is directed against the order dated 1.7.2016 passed in Cr. Appeal (Juvenile) No. 20 of 2016 by the learned Sessions Judge, Nawada, by which he has dismissed the appeal filed by the petitioner under Section 53 of the Act of 2000 against the order dated 19.5.2016 passed by the Juvenile Justice Board, Nawada, and affirmed the order passed by the court.

2. The petitioner Shubham Kumar, a Juvenile, is in the Observation Home at Gaya since 16th May, 2016 on the allegation that on 15.5.2016, the Police Patrolling Party had intercepted a



motorcycle bearing registration no. BR-21M-5888 on which the petitioner was the pillion rider. On search, from the bag being carried by the two bike riders, 20 bottles of foreign liquor containing 750 ml. in each bottle was recovered and on enquiry, the petitioner and co-accused Lalji Kumar failed to give any explanation for carrying the bottles illegally. On further enquiry, they disclosed that they used to sell liquor after purchasing it from Basodih (Jharkhand).

3. It is contended by the learned counsel for the petitioner that the petitioner was the pillion rider and declared juvenile in conflict with law by the Juvenile Justice Board, Nawada, vide order dated 19.5.2016 and by the same order, the application for bail of the petitioner was rejected. Being aggrieved by the rejection of bail vide order dated 19.5.2016, the petitioner preferred an appeal under Section 53 of the Juvenile Justice (Care and Protection of Children) Act, 2000. The appeal was heard by the learned Sessions Judge, Nawada and vide impugned order dated 1.7.2016, the appeal was also dismissed. It is contended by the learned counsel for the petitioner that the prayer for bail of the petitioner has been rejected by the Juvenile Justice Board and the Appellate Court on the basis of seriousness of allegation without taking into consideration the provisions prescribed under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. It is also submitted that till

date in course of enquiry, no witness has been examined.

4. Despite repeated calls, no one appears on behalf of the State.

5. I have heard learned counsel for the petitioner and perused the record. Admittedly, the petitioner is lodged in Observation Home since 16.5.2016 in a case registered under Section 47(a) of the Bihar Excise (Amendment) Act, 2016. It would be apparent from the record that before passing the impugned order, the Principal Magistrate, Juvenile Justice Board, Nawada, had not called for any report in respect of the petitioner either from the Probation Officer or from the Child Welfare Officer. He has also not taken into consideration the object of the Act. Furthermore, the proviso to Section 14 of the Act of 2000 prescribes that an enquiry in respect of a juvenile in conflict with law must be completed expeditiously. In the present case, witnesses have yet not been examined though the petitioner is in custody for over four months.

6. Regard being had to the nature of the offence and other attending facts and circumstances of the case, the impugned judgment dated 1st July, 2016 passed by the learned Sessions Judge, Nawada in Cr. Appeal (Juvenile) No. 20 of 2016 and the order dated 19.5.2016 passed by the Juvenile Justice Board, Nawada, in connection with Roh P.S. Case No. 27 of 2016 are hereby set aside.

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, Nawada, in Roh P.S. Case No. 27 of 2016. On furnishing of such affidavit, bond and sureties, the petitioner shall be released on bail forthwith.

7. The revision application stands allowed.

(Ashwani Kumar Singh, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N/A.
Uploading Date	06.10.2016
Transmission Date	06.10.2016