

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.987 of 2015

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

=====

Shippi Kumar @ Sippi Kumar @ Rohit Kumar Son of Shankar Singh @ Shiv
Shankar Singh R/o Village Bashant Bihar, P.S. Maranga, District Purnea, under the
guardianship of Shankar Singh @ Shiv Shankar Singh, s/o Late Vivekanand Singh,
R/o Village Bashant Bihar, P.S. Maranga, District Purnea.

.... Petitioner

Versus

The State of Bihar

.... Respondent

=====

Appearance :

For the Petitioner/s : Dr. Bidhu Ranjan, Advocate

For the Respondent/s : Mr. Prem Kumar Jha, APP

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 20-07-2016

Heard learned counsel for the petitioner and learned
counsel for the State.

2. By the present application preferred under
Section 53 of the Juvenile Justice (Care and Protection of Children)
Act, 2000 (for short 'JJ Act'), the petitioner has prayed for setting
aside the order dated 29th July, 2015 passed by the learned Sessions
Judge, Purnea in Criminal Appeal No. 26 of 2015, whereby the
appeal preferred under Section 52 of the JJ Act against the order
dated 05th June, 2015 passed by the Juvenile Justice Board, Purnea
in S. G. R. No. 929 of 2015 , arising out of K. Hat (Maranga)

P.S. Case No. 160 of 2015 has been dismissed.

3. The petitioner has been made accused in connection with the aforesaid case which was initially registered under Sections 307/34 of the Indian Penal Code and, later on, in course of investigation Section 302 of the Indian Penal Code and 27 of the Arms Act were also added to the FIR.

4. It is submitted by the learned counsel for the petitioner that the petitioner is in custody since 7th March, 2015. The Juvenile Justice Board assessed his age to be 16 years, 1 month and 14 days vide order dated 08.04.2015. The Juvenile Justice Board has rejected the application for bail of the petitioner on two grounds; (i) the offence is heinous in nature, and (ii) if the petitioner is released on bail, he is likely to fall in association with known criminals. The appellate court has also rejected the application of the petitioner on the same ground.

5. It is further submitted by the learned counsel for the petitioner that involvement of the petitioner in the aforesaid case has been made due to mistaken identity. The case of a juvenile has to be treated differently from the hardened criminals and the legislative intent is that there should be an effort to reform a child, who has been found in conflict with law. It is also submitted that there is nothing on record on the basis of which the courts below

have recorded their satisfaction that if the petitioner is released on bail, he may fall in bad company.

6. On the other hand, learned counsel for the State has submitted that the petitioner is alleged to have shot at one Amit Kumar, as a result of which he sustained injury and, later on, in course of treatment died. The petitioner was apprehended on chase by the police and was identified as the shooter.

7. Be that as it may, the gravity of the offence is not the sole criterion on the basis of which the bail of a juvenile is to be considered. The JJ Act has been enacted to consolidate and amend the law relating to delinquent juveniles and neglected children by providing care, protection, development and rehabilitation. The term 'in conflict of law' has been defined under clause (1) of Section 2 of the JJ Act as a juvenile who is alleged to have committed an offence and has not completed 18 years of age on the date of commission of such offence. When a juvenile in conflict with law for a bailable or non-bailable offence is apprehended, or detained, or appears or is brought before a Board, such juvenile has to be released on bail with or without surety. In terms of Section 12 of the JJ Act, a juvenile should be released if there appears no reasonable ground for believing that his release is likely to bring him in association with any known criminal or

expose him to moral, physical or psychological danger or that his release would defeat the ends of justice. In the present case, though the courts below have recorded that if the petitioner is released on bail, he may fall in the company of known criminals, the ground for forming such opinion is missing in the order. Even otherwise, the petitioner is in confinement since 07.03.2015.]

8. Keeping in mind the facts and circumstances of the case, the order dated 29th July, 2015 passed by the learned Sessions Judge, Purnea in Cr. Appeal No. 26 of 2015 affirming the order dated 05th June, 2015 passed by the Juvenile Justice Board, Purnea in S.G.R. No. 929 of 2015, arising out of K. Hat (Maranga) P. S. Case No. 160 of 2015, is set aside. The petitioner is directed to be released on bail on furnishing bond and sureties to the satisfaction of Juvenile Justice Board, Purnea in connection with K. Hat (Maranga) P. S. Case No. 160 of 2015.

9. The application stands allowed.

(Ashwani Kumar Singh, J.)

Kanchan/-

U		T	
---	--	---	--