

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.328 of 2016

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

Rakesh Kumar Singh, Son of Shri Ratneshwar Prasad Singh @ Bithal Singh
resident of Village- Mehiyan, Police Station-Chapra Mufassil, District-Saran
(Chapra) under the Guardian of his father, namely, Shri Ratneshwar Prasad Singh
@ Bithal Singh, Son of late Ram Ayodhya singh

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Brij Kishor Mishra, Advocate

For the Respondent/s : Mr. Binod Kumar 2, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 04-10-2016

This revision application is directed against the order dated 18.02.2016 passed by the learned Sessions Judge, Saran at Chapra in Criminal Appeal No. 06 of 2016 by which the appeal preferred under Section 52 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short 'the Act of 2000') against the order dated 30.01.2016 passed by the Juvenile Justice Board, Saran at Chapra in J.J.B. Case No. 1375 of 2016 arising out of Khaira P.S. Case No. 101 of 2015 has been dismissed and the prayer for bail of the petitioner has been rejected.

2. The petitioner has been made accused in Khaira P.S. Case No. 101 of 2015 registered under Sections 394 and 307 of the Indian Penal Code.

3. It is submitted that neither the petitioner is named in the FIR nor any incriminating article was recovered from his possession. However, in course of investigation, his name transpired on the basis of confession made by a co-accused. Though the petitioner was apprehended on 22nd December, 2015, till date, he has not been put on T.I. Parade. It is further submitted that the petitioner was declared a juvenile in conflict with law vide order dated 23.01.2016 by the Juvenile Justice Board, Chapra. The Juvenile Justice Board did not summon any social investigation report either from Probation Officer or from any other authority and rejected the application for bail taking into consideration gravity of the offence hold that the release of the petitioner on bail would not be in his interest. Similarly, the appellate court rejected his application for bail on the ground that the petitioner requires counselling in remand home for his reformation and change of criminal mentality.

4. I have heard learned counsel for the petitioner and perused the record.

5. It would be evident from the record that before



rejecting the application for bail of the petitioner, the Juvenile Justice Board did not summon any social investigation report from the Probation Officer. The opinion formed by the board is based on hypothetical presumption. Similarly, the appellate court has also not considered it appropriate to summon any social investigation report in respect of the petitioner from the Probation Officer and for rejecting the appeal, it has opined that the release of the appellant would not be in the interest of child in conflict with law.

6. In the opinion of this Court, the opinion formed by the board and the appellate court is based on mere conjecture and surmises. The object of the Act of 2000 has also not been kept in mind while considering the application for bail of the petitioner. Furthermore, the mandate of the Act to conclude the inquiry within three months has also not been considered at the time of consideration of the bail application.

7. Considering the aforesaid aspects of the matter, the impugned judgment dated 18.02.2016 passed by the learned Sessions Judge, Saran at Chapra in Criminal Appeal No. 06 of 2016 and the order dated 30.01.2016 passed by the Juvenile Justice Board, Saran at Chapra in J.J.B. Case No. 1375 of 2016 arising out of Khaira P.S. Case No. 101 of 2015 cannot be sustained. Accordingly, it is 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, Saran at Chapra in J.J.B. Case No. 1375 of 2016 arising out of Khaira P.S. Case No. 101 of 2015. On furnishing of such affidavit, bond and sureties, the petitioner shall be released on bail.

8. The revision application stands allowed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	-----
Uploading Date	06.10.2016
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