

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.225 of 2016

Arising Out of PS.Case No. -null Year- null Thana -null District- EAST CHAMPARAN
(MOTIHARI)

Mrinal Kumar Singh @ Mrinal Kumar, son of Keshav Keshri Singh @ Keshav Keshri, under the guardianship of his father Keshav Keshri Singh @ Keshav Keshri, resident of village-Balmi Nanhkar, P.S.-Kalyanpur, District-East Champaran.

.... Petitioner

Versus

The State of Bihar

... Respondent

Appearance :

For the Petitioner/s : Mr. Ansul, Advocate
Mr. Archit Rajpal, Advocate
Mr. Shreyanshu Kumar, Advocate
For the Respondent/s : Mr. Manoj Kumar-1, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 19-08-2016

This revision application is against the order dated 19.11.2015 passed in Cr. Appeal No. 110 of 2015 by which the learned Additional Sessions Judge-IV, Motihari, East Champaran has upheld the order of the Juvenile Justice Board, Motihari dated 29.09.2015 passed in Tr. No. 936 of 2015 by which the prayer for bail of the petitioner has been rejected in connection with Kalyanpur P.S. Case No. 198 of 2015 dated 16.06.2015 registered under Sections 363, 365 & 366/34 of the Indian Penal Code.

2. In course of investigation of the case, the petitioner surrendered on 4th September, 2015 and was remanded to judicial custody. A plea was taken on his behalf that on the date of occurrence, he was a juvenile in conflict with law.

3. By order dated 26.09.2015, the Juvenile Justice Board declared him a juvenile in conflict with law and determined his age as sixteen year nine month and eleven days on the alleged date of occurrence and, thereafter, he was sent to Observation Home at East Champaran, Motihari. His application for bail was rejected by the Juvenile Justice Board, Motihari vide order dated 29.09.2015 on the ground that his release would bring him into association with known criminal which will expose him to moral, physical or psychological danger as a result of which his release would defeat the ends of justice.

4. The aforesaid order dated 29.09.2015 was challenged in appeal. However, the appellate court also vide order dated 19.11.2015 passed in Cr. Appeal No. 110 of 2015 rejected the application for bail on the same ground.

5. It is submitted by the learned counsel for the petitioner that neither the Juvenile Justice Board nor the appellate court has properly considered the provision as prescribed under Section 12 of the Juvenile Justice (Care and Protection of Children)

Act, 2000 (For short 'the Act of 2000'). The opinion formed by the court below as also the Board is based on mere guess work and there was no material before them on the basis of which an opinion that the release of the petitioner would bring him into association with known criminal was based.

6. On the other hand, learned counsel for the State has submitted that the offence alleged is serious in nature and apart from the petitioner, there were other accused persons involved in the alleged occurrence and the release of the petitioner would certainly bring him into association with known criminals.

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

8. I find substance in the argument advanced by the learned counsel for the petitioner. Apparently, there was no social investigation report before the Juvenile Justice Board and before the appellate court in respect of the petitioner and in absence of any other material, the formation of opinion that the release of the petitioner would bring him into association with known criminal and would defeat the ends of justice is not tenable in the eye of law. The opinion is based merely on conjecture, surmises and guess work.

9. Furthermore, though the petitioner is lodged in

Observation Home since 26.09.2015, the inquiry has yet not concluded. The proviso to Section 14(1) of the Act of 2000 contemplates for a time bound and speedy inquiry.

10. In my opinion, there is no justification for keeping an inquiry pending for about one year in case of juvenile in conflict with law.

11. For the reasons aforesaid, the impugned order dated 19.11.2015 passed by the learned Additional Sessions Judge-IV, East Champaran, Motihari in Cr. Appeal (Juvenile) No. 110 of 2015 and the order dated 29.09.2015 passed by the Juvenile Justice Board, East Champaran, Motihari in Tr. No. 936 of 2015, are set aside. The petitioner is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of the Juvenile Justice Board, East Champaran, Motihari in connection with Kalyanpur P.S. Case No. 198 of 2015.

12. The revision application stands allowed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	---
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