

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.148 of 2016

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

1. Rajeev Kumar Son of Sri Ramlal Rai, Resident of Village- Bhagirathipur, Near Juite Mill, P.S.- Kalyanpur, Distt- Samastipur, under Natural Guardianship of his Mother Ruby Devi, R/o Vill- Bhagirathipur, P.S.- Kalyanpur, Distt- Samastipur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Deepak Kumar

For the Respondent/s : Mr. P. N. Pandit, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date: 19-08-2016

This revision application under section 53 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter referred to as the Act of 2000) is directed against the judgment dated 05.01.2016 passed by the learned Sessions Judge, Samastipur in Criminal Appeal No. 84 of 2015, whereby the appeal preferred against the order dated 15.12.2015 passed by the Juvenile Justice Board, Samastipur in Juvenile Enquiry No. 1218 of 2015 has been dismissed and the prayer for bail of the petitioner in connection with Kalyanpur P.S. Case No. 184 of 2014 registered under sections 302/34 and 120(B) of the Indian Penal Code as also Section 27 of the Arms Act has been rejected.

2. According to the first information report, the



petitioner had opened fire upon the informant of the case causing injury to him whereas the other co-accused persons, who were six in number and named in the first information report, are alleged to have opened fire causing injury to the father of the informant as a result of which he died.

3. In course of investigation the petitioner surrendered before the court of the learned Chief Judicial Magistrate, Samastipur on 27.08.2014 and was remanded to judicial custody. He pleaded that on the date of occurrence, he was a juvenile. By order dated 14.12.2015, the Juvenile Justice Board, Samastipur declared him juvenile in conflict with law and presently he is lodged in the Observation Home at Samastipur. The application for bail of the petitioner was rejected by the Juvenile Justice Board, Samastipur in Juvenile Enquiry No. 1218 of 2015 on 15.12.2015 on the ground that his release is likely to bring him into association with known criminals and would defeat the ends of justice.

4. The appeal preferred against the order passed by the Juvenile Justice Board, Samastipur under section 52 of the Act of 2000 was dismissed by the impugned order dated 05.01.2016 on the ground of seriousness of the accusation as also that his release would certainly bring him in association with known criminals.

5. It is submitted by the learned counsel for the



petitioner that the grounds on which bail of the petitioner has been refused by the Juvenile Justice Board as also by the lower appellate court are erroneous in law. It would be apparent from a reading of Section 12 of the Act of 2000 that the prayer of a Juvenile for grant of bail can be refused on three grounds mentioned therein. They are (i) release is likely to bring him into association of known criminals, (ii) or expose him to moral, physical or psychological danger (iii) or that his release would defeat the ends of justice.

6. In the present case, there is nothing on record which would have prompted the Juvenile Justice Board or the learned Sessions Judge to form an opinion that the petitioner, if released on bail, may form his own association of criminals or become associates of other criminal's gang. The opinion formed by the Juvenile Justice Board and the learned Sessions Judge is based merely on conjecture and surmises. Further more, the petitioner being a juvenile in conflict with law has been lodged either in jail or in Observation Home since 27.08.2014 and the enquiry proceeding has yet not come to an end. The proviso to Section 14(1) of the Act of 2000 contemplates that an enquiry under this Section should be completed within a period of four months from the date of its commencement unless the period is extended by the Board having regard to the circumstances of the case and in special cases after recording the reasons in writing for such

extension. In my opinion, there can be no justification in continuing with the enquiry for the last two years.

7. In that view of the matter, the impugned judgment and order dated 05.01.2016 passed by the learned Sessions Judge, Samastipur in Criminal Appeal No. 84 of 2015 affirming the order dated 15.12.2015 passed by the Juvenile Justice Board, Samastipur in Juvenile Enquiry No. 1218 of 2015 is set aside. The petitioner is directed to be released on furnishing bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of the Juvenile Justice Board, Samastipur in Kalyanpur P.S. Case no. 184 of 2014.

8. The revision application stands allowed.

(Ashwani Kumar Singh, J)

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