

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.440 of 2016

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

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Rahul Kumar Singh @ Rahul Kumar Nirala, son of Dilip Singh, resident of Village- Duggul, Police Station- Kasma, District- Aurangabad under the guardianship of his father natural guardian.

.... Petitioner

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Kamendra Prasad Singh, Advocate

For the Respondent/s : Mr. S. Ehteshamuddin, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 16-08-2016

The petitioner, a juvenile in conflict with law, is in custody since 14th August, 2015, in connection with Kasma P.S. Case No. 61 of 2015, registered under Sections 302 and 201/34 of the Indian Penal Code corresponding to G.R. No. 1335 of 2015/T.R. No. 887 of 2015.

2. The prayer for bail of the petitioner was rejected by the Juvenile Justice Board, Aurangabad (For short 'J.J. Board'), vide order dated 13.01.2016, on the ground that tension is prevailing between the parties and the release of the petitioner may bring him into association with known criminals. The order passed



by the J.J. Board was challenged in appeal before the Sessions Judge, Aurangabad, vide Cr. Appeal No. 3 of 2016. The Sessions Judge, Aurangabad vide order dated 19th February, 2016, rejected the appeal preferred by the petitioner on the ground that the trial of the petitioner is likely to proceed soon and on the basis of the materials available on record, the appellant do not deserve bail.

3. It is submitted by the learned counsel for the petitioner that the J.J. Board and the learned Sessions Judge, Aurangabad have failed to appreciate the object of the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 (For short 'the Act of 2000'). He has submitted that the findings of the court below are based on merits of the case, but in case of a juvenile in conflict with law, the bail application of a juvenile ought to have been considered irrespective of the seriousness or heinousness of the offence. The tension prevailing between the parties could not have been ground on the basis of which the prayer for bail of the petitioner would have been rejected.

4. It is further submitted that most of the adult co-accused whose cases are being conducted before the regular court have either been granted bail or anticipatory bail by this Court. In this regard, learned counsel for the petitioner has placed reliance on the order dated 06.05.2016 passed in Cr. Misc. No. 57740 of 2015

by a Bench of this Court whereby co-accused Raju Kumar Singh having identical allegation to that of the petitioner has already been granted anticipatory bail. He has furnished a web copy of the aforesaid order before the court. Let the same be kept on record.

5. Learned counsel for the State has opposed the application for grant of bail to the petitioner. However, he concedes that the case of the petitioner and that of Raj Kumar Singh stands on identical footing.

6. Be that as it may, I find that the learned Sessions Judge and the J.J. Board, Aurangabad have failed to appreciate the law in correct perspective. The prayer for bail of a juvenile in conflict with law could have been refused only under three circumstances mentioned under Section 12 of the Act of 2000, they are as under:-

- (i) If there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminals;
- (ii) If there appear reasonable grounds for believing that the release is likely to expose the juvenile in conflict with law to moral, physical or psychological danger; or
- (iii) If there appear reasonable grounds for believing that the release of the juvenile in conflict with law would defeat the ends of justice.

7. In order to arrive any of the aforesaid findings the court or the board ought to have the social investigation report from the prescribed authority or the Probation Officer. I find that the learned Sessions Judge has rejected the appeal on the ground that the trial is likely to commence soon.

8. Let it be noted that under the Act of 2000, there is no concept of trial. Section 14 of the Act of 2000 prescribes that an inquiry 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.

9. Thus, it would be evident that the mandate of law is that the inquiry must be completed expeditiously and without any delay. Here, in the present case, the petitioner is in custody since 14.08.2015 and from the order of the appellate court dated 19th February, 2016, it would appear that the inquiry had not even commenced by that day.

10. Regard being had to the facts noted above as also the fact that several other co-accused who were adult on the date of occurrence have already been granted bail, the impugned order dated 19.02.2016 passed by the learned Sessions Judge, Aurangabad in Cr. Appeal No. 3 of 2016 and the order dated

13.01.2016 passed by J.J. Board, Aurangabad, are set aside.

Consequently, the petitioner is directed to be released on bail on furnishing bond of Rs. 10,000/- (rupees ten thousand) by the natural guardian with two sureties of the like amount to the satisfaction of the J.J. Board, Aurangabad.

11. The Revision Application stands allowed.

(Ashwani Kumar Singh, J.)

Sanjeet/-

AFR/NAFR	NAFR
CAV DATE	----
Uploading Date	20.08.2016
Transmission Date	20.08.2016