

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.796 of 2015

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

1. Manjay Paswan @ Mandal son of Shri Lal Paswan, under the guardianship of Shri Lal Paswan, resident of village- Banwaripur, P.S. Bhagwanpur, District Begusarai

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

Appearance :

For the Petitioner/s : Mrs. Poonam Singh

For the Respondent/s : Mr. Harendra Prasad, A.P.P.

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. This application under section 53 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short the J.J. Act) has been filed by the petitioner for setting aside the judgment passed in Criminal Appeal No. 57 of 2015 by the learned Sessions Judge, Begusarai whereby the appeal preferred under section 52 of the J.J. Act against the order dated 04.03.2015 passed by the Juvenile Justice Board (for short the J.J.B.), Begusarai has been dismissed and the prayer for bail of the petitioner in connection with Bhagwanpur P.S. Case No. 181 of 2014 has been rejected.

3. It is contended by the learned counsel for the



petitioner that the petitioner has been made accused in Bhagwanpur P.S. Case no. 181 of 2014 registered under sections 364, 302, 201 and 120-B of the Indian Penal Code on 18.10.2014. He surrendered before the court of the learned Chief Judicial Magistrate, Begusarai on 27.10.2014. Initially, he was remanded to jail. An application on behalf of the petitioner was filed before the J.J.B., Begusarai for declaring him a juvenile in conflict of law. By order dated 19.02.2015 the petitioner was declared a juvenile in conflict of law and thereafter he has been shifted to an Observation Home.

4. It is submitted that several other co-accused who were adult, namely, Navin Mandal, Bhawani Mandal, Sanjeev Mahton @ Sanjeet Mahto and Lalo Paswan have been granted either anticipatory or regular bail by different Benches of this Court in connection with the aforesaid case. However, the prayer for bail of the petitioner has been rejected both by the J.J.B. as also by the lower appellate court on the ground that the offence is heinous and in case the petitioner is released on bail, there is threat to his life.

5. Learned counsel for the State has opposed the present application. He has submitted that there is strong circumstantial evidence against the petitioner of causing death of two children and in view of seriousness of the offence, the petitioner does not deserve to be enlarged on bail.

6. I have heard respective counsel for the parties.

Section 12 of the J.J. Act prescribes that when any person accused of a bailable or non bailable offence, and apparently a juvenile, is arrested or detained or appears or is brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 or in any other law for the time being in force, be released on bail with or without surety but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.

7. From the order impugned it does not appear that the court below has taken into consideration any of the grounds mentioned in section 12(1) of the J.J. Act for rejection of bail of the petitioner. However, a vague finding has been given that if released on bail, there may be threat to the life of the petitioner. Such finding is not based on any report of the Probation Officer or the I.O. of the case.

8. Regard being had to the facts and circumstances of the case, the order impugned cannot be sustained. Accordingly, the impugned order dated 17.04.2015 passed in Criminal Appeal No. 57 of 2015 is set aside. The petitioner is directed to be released on bail

on furnishing bond and sureties to the satisfaction of the Juvenile Justice Board, Begusarai.

9. This revision application is, accordingly, allowed.

(Ashwani Kumar Singh, J)

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