

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.979 of 2015

Arising out of P.S. Case No. 184 Year 2010, Thana Banshi O.P., District- JEHANABAD

=====

Bittu Sharma @ Bittu Kumar @ Pankaj under guardianship of his father Shri Praduman Sharma @ Praduman Narayan Sharma, resident of village - Orbigha, P.S. -Karpi (Banshi O.P.), District - Arwal.

.... Petitioner

Versus

The State of Bihar

.... Respondent

=====

Appearance :

For the Petitioner : Mr. Manoj Priyadarshi, Advocate.
Mr. Jogendra Kumar, Advocate.
For the State : Dr. Maya Nand Jha, A.P.P.

=====

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 03-10-2016

This revision application under Section 52 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (For short 'the Act of 2000') is directed against the order dated 16.9.2015 passed in Cr. Appeal No. 19 of 2015 by the learned Sessions Judge, Jehanabad, by which he has dismissed the appeal filed by the petitioner under Section 52 of the Act of 2000 against the order dated 1.7.2015 passed by the Juvenile Justice Board, Jehanabad, and affirmed the order passed by the court.

2. The petitioner has been made accused in Karpi (Banshi O.P.) P.S. Case No. 184 of 2010 registered under Sections 302/34 of the Indian Penal Code and Section 27 of the Arms Act.



3. According to the prosecution case, while the informant Ramdhyan Sharma was at his house along with his son Dharmendra Sharma, all of a sudden five persons including the petitioner variously armed went there, a co-accused namely, Siyaram Sharma, instigated to kill, upon which, the petitioner caught hold waist of Dharmendra Sharma, as a result of which, Dharmendra Sharma fell down. Thereafter, Pramod Kumar Sharma @ Sadhu Sharma shot Dharmendra Sharma at his temporal region. Co-accused Jai Kishore Sharma also fired shot which hit his left hand. The informant Ramdhyan Sharma raised alarm upon which several persons reached there. In the meantime, the assailants fled away. The motive for committing the offence is alleged to be a demand of *rangdari* by the accused persons.

4. It is contended by the learned counsel for the petitioner that the petitioner was remanded in the present case on 19.12.2014. His date of birth as per the CBSE certificate is 29.12.1993. On enquiry, the Juvenile Justice Board, Jehanabad, declared him juvenile in conflict with law on the alleged date of occurrence vide order dated 18.6.2015. However, the prayer for bail of the petitioner was rejected by the Juvenile Justice Board, Jehanabad, vide order dated 23.6.2015 on the ground that after release, he is likely to indulge in criminal activities and that his



release may adversely affect him. The Appellate Court also rejected his application for bail vide impugned order dated 16.9.2015 on the ground that release of the petitioner is likely to expose him to moral, physical or psychological danger and would defeat the ends of justice. It is further contended that neither Juvenile Justice Board nor the Appellate Court called for any social investigation report of the Probation Officer in respect of the petitioner and the observations made by the courts below are based merely on conjecture and surmises. It is further contended that by now the petitioner has remained in custody for about 32 months. It is also contended that though the petitioner has been declared a juvenile, he is being kept in jail at Jehanabad.

5. *Per contra*, learned counsel for the State has submitted that as on date, the petitioner has attained majority and is above 20 years and, hence, his detention in jail, is justified. He has contended that the allegation against the petitioner being that of actively participating in commission of the murder of son of the informant, the Appellate Court has rightly dismissed the appeal.

6. I have heard learned counsel for the parties and perused the record. The Act of 2000 does not envisage a situation under which a juvenile who has attained majority can be confined in jail. In case, he is lodged in jail, his detention is wholly without

jurisdiction and illegal. I further find substance in the argument of the learned counsel for the petitioner that no social investigation report was ever called for by the courts below in respect of the character and the social background of the petitioner, and, hence, the opinion formed by the Board and the Appellate Court is based on mere conjecture and surmises.

7. Taking into consideration the facts and circumstances of the case, I set aside the impugned Judgment dated 16.9.2015 passed by the learned Sessions Judge, Jehanabad, in Cr. Appeal No. 19 of 2015 and the order dated 1.7.2015 passed by the Juvenile Justice Board, Jehanabad, in Karpi (Banshi O.P.) P.S. Case No. 184 of 2010, corresponding to G.R. Case No. 2805 of 2010, Trial No. 30(J) of 2015.

8. 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, Jehanabad, in Karpi (Banshi O.P.) P.S. Case No. 184 of 2010, corresponding to G.R. Case No. 2805 of 2010, Trial No. 30 (J) of 2015. On furnishing of such

affidavit, bond and sureties, the petitioner shall be released on bail forthwith.

9. The revision application stands allowed.

(Ashwani Kumar Singh, J)

S.Ali/-

AFR/NAFR	NAFR
CAV DATE	N/A.
Uploading Date	05.10.2016
Transmission Date	05.10.2016