

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.351 of 2016

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

Niranjan Kumar Jha son of Sri. Jay Chandra Jha, Resident of Village : Rasiyari, Police Station : Ghanshyampur, District: Darbhanga, under the guardianship of Jay chandra Jha, son of Late Anant Jha, Resident of Village: Rasiyari, Police Station Ghanshyampur, District Darbhanga.

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

Appearance :

For the Petitioner/s : Mr. Prafull Chandra Jha, Advocate

For the Respondent/s : Mr. Ram Chandra Singh, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

ORAL JUDGMENT

Date: 16-08-2016

The petitioner, a juvenile, aged about 15 years on the date of occurrence, is in custody since 27th November, 2014.

2. It is submitted by the learned counsel for the petitioner that despite lapse of over one year and eight months, the inquiry being conducted against the petitioner has not been completed by the Juvenile Justice Board, Madhubani. It is also submitted that the Additional District and Sessions Judge, Madhubani has passed the impugned order dated 6.2.2016 in Cr. Appeal No.01 of 2015 whereby he has rejected the appeal against the order dated 10.2.2015 passed by the Juvenile Justice Board, Madhubani in E.N. No.598 of 2015 without taking into consideration the object of Juvenile Justice (Care



and Protection of Children) Act, 2000 (for short J.J.Act,2000), which was enacted to provide for protection of children in terms of Article 15, Article 39(e) and (f), Articles 45 and 47 of the Constitution of India which casts a duty upon the State for ensuring that all the needs of children are met and that their basic human rights are fully protected. It is submitted that the very object of the J.J.Act, 2000 is that a juvenile in conflict with law should not be made to stay long in observation home or a place of safety and in case his stay in the observation home is necessary in the interest of justice, he should be kept occupied and the occupation should be intended to bring about adaptability in life aimed at bringing about a self confidence and picking of human virtues.

3. He has contended that unfortunately, in the observation home, where the petitioner has been lodged pending inquiry since long, there is no provision to keep a person occupied.

4. Lastly, it has been contended on the basis of materials in the FIR and the case diary that it would be evident that it was one Md. Shamim, a co-accused, against whom there is allegation of firing causing injury to the victim of Madhepur P.S. Case No. 168 of 2014 registered under Sections 394 and 302 of the Indian Penal Code.

5. On the other hand, learned counsel for the State has submitted that if the petitioner is released on bail there is all

likelihood that he may come in contact with known criminals and may involve in some other serious offences.

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

7. Taking into consideration the materials available on record and the provision prescribed under the J.J. Act, 2000, the impugned order dated 6.2.2016 passed by the learned Additional District and Sessions Judge-VI, Madhubani in Cr. Appeal No.1 of 2015 arising out of Madhepur P.S. Case No.168 of 2014 whereby he has rejected the bail application of the petitioner and affirmed the order of Juvenile Justice Board dated 20.2.2015 cannot be sustained. The reasons assigned for rejection of bail of the petitioner by the Juvenile Justice Board and the appellate court are not in conformity with the provision prescribed under Section 12(1) of the J.J.Act, 2000. The court and the Board have not summoned any social investigation report from the probation officer. Even, the prosecution has failed to produce any such report. In absence of the report of the probation officer, the opinion of the court below is based merely on conjecture and surmises.

8. In that view of the matter, the impugned order dated 6.2.2016 passed in Cr. Appeal No.1 of 2015 by the Additional District and Sessions Judge, Madhubani and the order dated 10.2.2015 passed

in E.N. No.598 of 2015 (G.R. No.1724 of 2014) by the Juvenile Justice Board, Madhubani are set aside.

9. The petitioner is directed to be released on furnishing bond of Rs.10,000/- (ten thousand) by the father of the petitioner with two sureties of the like amount each to the satisfaction of Juvenile Justice Board, Madhubani in connection with Madhepur P.S. Case No.168 of 2014 (G.R. No.1724 of 2014), subject to the further condition that the father of the petitioner shall file an affidavit before the Board that he will take due care of the petitioner and make efforts to inculcate human virtues in him.

(Ashwani Kumar Singh, J)

Md.S./-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	18.8.2016
Transmission Date	18.8.2016