

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.445 of 2017

- =====
1. Mithilesh Sharma @ Mithilesh Kumar Sharma, son of Prabhu Sharma
 2. Alok @ Alok Kumar Sharma @ Bittu Sharma, son of Pappu Sharma
Both are residents of Village-Birati Bathuwariya, P.S.-Bathuwariya,
District-West Champaran, under the guardians of their fathers,
namely Prabhu Sharma and Pappu Sharma respectively.

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brij Kishor Mishra

For the Respondent/s : Mr. Sri Akbar Ali

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 31-05-2017

The petitioners are accused in connection with Chautarwa (Bathwariya) P.S. Case No. 244 of 2016, a case under Sections 302, 201, 120B of the Indian Penal Code.

The First Information Report would reveal that petitioners and others are suspected to have committed murder of the son of the informant who had gone along with the petitioners to watch some cinema.

The petitioners have stated on oath that they have got no criminal antecedent, nor any motive is alleged against the petitioners for commission of the crime alleged.

The petitioners were declared juvenile on 05.01.2017 by the Juvenile Justice Board, Bettiah. However, the petitioners were refused bail by the learned Juvenile Justice Board, Bettiah vide order dated 15.02.2017 passed in J.J.B. Case No. 505



of 2017, for the reason that release of the petitioners would bring them in the association of the known criminals. They would likely to be physically, psychologically and mentally exploited and the ends of justice would be defeated in the event of their release.

The order of the Juvenile Justice Board, Bettiah was challenged before the learned District & Sessions Judge, Bettiah under Section 52 of the J. J. B, Act and vide judgment dated 21.03.2017 passed in Cr. Appeal No. 12 of 2017, the prayer was again refused and the order of the Juvenile Justice Board, Bettiah was affirmed.

The submission of the petitioners is that, bail to a juvenile is rule and refusal is exception. The proviso to Section 12 of the Juvenile Justice Act should be applied only when there is material to substantiate the same. Nothing was produced on record as to who is known criminal in whose associations the petitioners are likely to go in the event of their release. This is not a case of causing failure of justice in the event of grant of bail to the petitioners who are juveniles. Even the adult accused as under trial prisoners are granted bail when only material against them are suspicion and there are confessional statements before the police, which is no evidence.

After hearing the parties, I do not find that the learned Courts below have assigned any cogent reason to



substantiate the impugned orders. Moreover, the reasons assigned by the Courts below are not substantiated by the materials available on record. Hence, the order dated 15.02.2017 passed by the Juvenile Justice Board, Bettiah in J.J.B. Case No. 505 of 2017 and the judgment dated 21.03.2017 passed by learned District & Sessions Judge, Bettiah in Cr. Appeal No. 12 of 2017 are hereby set aside.

Let the petitioners, named above, on the execution of surety bond by one of their parents as well as on filing of the affidavits by one of the parents that they would take proper care of the petitioners and would not allow the petitioners to go into the association with antisocial elements as well as affidavit that they would produce the petitioners as and when required during enquiry, be released on bail to the satisfaction of learned Principal Magistrate, Juvenile Justice Board, Bettiah, West Champaran in connection with J.J.B. Case No. 505 of 2017, arising out of Chautarwa (Bathwariya) P.S. Case No. 244 of 2016.

Accordingly, the application stands allowed.

(Birendra Kumar, J)

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