

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1049 of 2017

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Niraj Kumar Gupta@ Niraj Kumar, Son of Jay Prakash Gupta, Resident of
Village- Hardobara, P.S.- Barharia, District- Siwan

.... Petitioner/s

Versus

The State of Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ramadhar Shekhar

For the Respondent/s : Mr. Sri Akhileshwar Dayal

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR
ORAL ORDER

3 24-11-2017 Heard learned counsel for the petitioner and learned
counsel for the State.

Petitioner is an accused in Barharia P.S. Case No. 195 of 2017 registered under Sections 272, 273, 308/34 of the Indian Penal Code and Sections 25(B), 35(a), 36 and 41(1) of the Bihar Prohibition and Excise Act, 2016. He claimed himself juvenile, so his case was referred to the Juvenile Justice Board, Siwan (hereinafter referred to as 'Board'), the Board held enquiry and found him a juvenile but his bail was rejected by the Board and the Sessions Court also affirmed the rejection order of the Board vide order dated 14.09.2017 passed in Cr. Appeal No. 53 of 2017. Petitioner has preferred this revision application against the aforesaid order rejecting his bail.

A brief fact of the case is that police received information that some persons are engaged in illicit trafficking of



country made liquor, reached the concerned village and petitioner along with others, standing in front of his house, were apprehended and house was searched where from 210 bottles each containing 375 ml. foreign liquor kept in 10 cartoons were recovered.

Learned counsel for the petitioner submits that petitioner is less than 17 years of age and having no criminal antecedent but the Board as well as learned Sessions Court, both refused the bail.

Having considered the submissions and on perusal of record, it becomes apparent that the petitioner is a juvenile having no criminal antecedent, but the Board as well as the Sessions Court rejected the prayer for bail considering chance of no reformation to the accused and in case of release on bail, he would be exposed to moral, physical and psychological danger. The ground of rejection of bail is not tenable in view of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. This section clearly indicates gravity of offence, whether case is bailable or non-bailable in nature, is no ground for rejection of bail, except on three grounds mentioned in proviso of the said section; first, in case of his release, he may likely to go in association of any known criminal or his release would expose the



juvenile to moral, physical or psychological danger and lastly his release is not in the interest of justice.

In the present case, there is no police report or any negative report submitted by the Probationary Officer showing his criminal antecedent or his association with any bad element, though this fact only comes to the light that his father was also an accused in a case under Section 308 of the I.P.C. and his brother also an accused of Excise Act.

So the petitioner, namely, Niraj Kumar Gupta @ Niraj Kumar, is directed to be released on bail upon furnishing bail bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned Juvenile Justice Board, Siwan in connection with J.E. No. 127 of 2017 arising out of Barharia P.S. Case No. 195 of 2017.

(Arun Kumar, J)

Sujit/-

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