

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.907 of 2016

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Satyendra Chaudhary, Son of Late Wakil Chaudhary under his guardianship
of his Mama namely, Vijayatodtary Son of late Shivdhari Chaudhary,
Resident of village Gopalpur P. S. Sherghatti, District-Gaya.

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Sinha

For the Respondent/s : Mr. Mr. Manoj Kumar

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI
SHARAN SINGH
ORAL ORDER

2 17-01-2017 Heard learned counsel for the parties.

2. The petitioner is aggrieved by an order dated 22.07.2016 passed by the learned First Additional Sessions Judge, Gaya in Criminal Appeal (Juvenile) No. 47 of 2016/7 of 2016, whereby he has refused to interfere with the order passed by the Juvenile Justice Board, Gaya, rejecting the petitioner's application for his release on bail. The petitioner is an accused of an offence punishable under Section 376(G) of the Indian Penal code and Section 4 of the POSCO Act in Mahila P.S. Case No. 16 of 2016.

3. Learned counsel appearing on behalf of the petitioner has submitted that the Courts below have not duly considered the provisions of Section 12 of the Bihar Juvenile Justice (Care & Protection of Children) Act, 2000 in true spirit, which mandates release of an accused on bail with the only exception that a



juvenile may not be released on bail, if there appears 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.

4. Without considering this aspect of the matter, the appellate Court has rejected the petitioner's bail, learned counsel for the petitioner submits. Learned counsel for the petitioner appears to be right in his submission. The appellate Court has not taken into account the provision to Sub section (1) of Section 12 of the Bihar J.J. Act, inasmuch as he has not recorded his opinion that his release will expose the juvenile to moral, physical or psychological danger or that his release will defeat the ends of justice.

5. The order dated, 22.07.2016 passed by the learned First Additional Sessions Judge, Gaya is, accordingly, set aside. The matter is remitted back to the Court below for the purpose of passing an order afresh after taking into consideration the proviso to sub Section (1) of Section 12 of the J.J. Act.

6. This application is allowed with the observation as above.

ArunKumar/-

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(Chakradhari Sharan Singh, J)

