IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.915 of 2016

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1. Gorakh Bhagat @ Shyam Kishore Kushwaha S/o Shri Ram Babu Bhagat r/o Village Medan Sirsiya P.S. Kalyanpur District East Champaran through his father and natural guardian Shri Ram Babu Bhagat.

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Patanjali Rishi
For the Respondent/s : Mr. Sri Dashrath Mehta

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH
ORAL ORDER

3 17-01-2017 Heard learned counsel for the parties.

2. The petitioner, in the present criminal revision application is aggrieved by an order dated 29.04.2016 passed by the learned Sessions Judge, East Champaran, Motihari in Criminal Appeal (Juvenile) No. 30 of 2016, whereby he has refused to interfere with the order of the Juvenile Justice Board, Motihari, East Champaran dated 29.03.2016 rejecting the petitioner's prayer for his release on bail.

3. The petitioner is a juvenile and he has been made accused in Kalyanpur P.S. Case No. 238 of 2015 containing allegation of commission of offence punishable under Section 377 of the Indian Penal Code and Sections 4/6 of the POCSO Act.

4. Assailing the impugned order, learned

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counsel for the petitioner has submitted that the Court below and the Board have emphasized more on the seriousness of the offence and has not given due weightage to the provisions of Section 12 of the Act, which lays down that the juvenile should be released on bail except for the circumstances mentioned in proviso to Sub Section (1) of Section 12 of the Act.

5. Section 12(1) of the Bihar Juvenile Justice (Care & Protection of Children) Act, 2000 reads thus:-

> *"12. Bail of juvenile.—*
> *(1) When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety 1[or placed under the supervision of a Probation Officer or under the care of any fit institution of fit person] but he shall not be so released if there appear 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."*

6. From the impugned order passed by the learned Sessions Judge, East Champaran, I find that he has not referred to any of the contingencies as mentioned in Section 12(1) of the Act on the basis of which he could have denied the petitioner's

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privilege of bail, which partakes the nature of statutory right under the Act.

7. The order dated 29.04.2016, therefore, cannot be sustained and is, accordingly, set aside. The matter is remitted back to the learned Sessions Judge, East Champaran, Motihari for passing an order afresh in Criminal Appeal (Juvenile) No. 30 of 2016. Such order must be passed within a period of three months from the date of communication of the present order.

8. It has been pointed out by the learned counsel for the petitioner that till date the enquiry as contemplated under Section 14 of the Act has not been completed by the Juvenile Justice Board. The Juvenile Justice Board, Motihari, East Champaran is directed to expedite the completion of enquiry and complete it within a period of three months from the date of the communication of the present order. If the enquiry is not completed within three months, that will be an additional ground for considering the petitioner's case for his release on bail.

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

(Chakradhari Sharan Singh, J)

ArunKumar/-

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