

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.900 of 2016

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

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1. Parma Sah Son of Late Shivjee Sah R/o Village- Narharpur, P.S.-Basantpur,
District-Siwan

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ranjeet Kumar Pandey

For the Respondent/s : Mr. Abhay Kumar No. I

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**CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN
SINGH**

JUDGMENT AND ORDER

ORAL

Date : 16-01-2017

Heard learned Counsel for the petitioner and
learned Additional Public Prosecution representing the State.

2. The petitioner is aggrieved by an order, dated
07.06.2016, passed, in Sessions Trial No. 480 of 2011, arising
out of Basantpur Police Station Case No. 47 of 2011, by
learned Additional Sessions Judge V, Siwan, whereby he has
sent the records to the Juvenile Justice Board, Siwan, for
enquiry, for the purpose of determining the age of Opposite
Party No. 2.

3. Certain facts have not been disputed even by
the petitioner, who is the informant of the said case. A claim of



juvenility was raised at the very threshold; whereafter opinion of the Medical Board was sought. The Medical Board, upon examination, found the age of Opposite Party No. 2, as on 11.02.2013, to be 19-20 years. Considering the said report of the Medical Board, the Juvenile Justice Board, Siwan, declared the Opposite Party No. 2 to be a major and not a juvenile. This is also not in dispute that the date of occurrence is 28.04.2011 and even if the maximum age, as suggested by the Medical Board is to be accepted, the age of Opposite Party No. 2 would have been 18 years and two months, as on the date of occurrence. The rules provide giving relaxation for a period of six months. On that basis, the age of Opposite Party No. 2 ought to have been determined as less than 18 years and he could have accordingly been declared as a juvenile. For the reasons unknown, the Juvenile Justice Board, Siwan, declared the Opposite Party No. 2 to be a major.

4. The learned Sessions Judge, Siwan, by the impugned order, taking into account these facts, remitted the matter to the Juvenile Justice Board, Siwan, for the purpose of formally declaring the Opposite Party No. 2 a juvenile.

5. It seems that by order, dated 29.07.2016, the Opposite Party No. 2 has been released on bail on such terms and conditions on which a juvenile is to be released on bail.

6. Learned Counsel for the petitioner has assailed



both the orders on the ground that without there being determination of juvenility of the Opposite Party No. 2, he has been released on bail by an order passed by the Juvenile Justice Board, Siwan.

7. I do not find any illegality in the order passed by the learned Sessions Judge, Siwan, who noticed the apparent discrepancy in the decision of the Juvenile Justice Board, Siwan, which determined the juvenility of Opposite Party No. 2 on the basis of date of examination of Opposite Party No. 2 and not on the basis of date of the occurrence. This error was apparent and declaration of the Opposite Party No. 2 as a juvenile was just a formality.

8. In view of the facts, which are not in dispute, the Opposite Party No. 2 is declared as a juvenile. The Juvenile Justice Board, Siwan, is directed to proceed accordingly.

9. Before parting with this order, I must observe that the Juvenile Justice Board, Siwan, ought to have been cautious while carrying out the order passed by the learned Sessions Judge, Siwan, and the Board ought to have passed a formal order, declaring the Opposite Party No. 2 a juvenile.

10. In view of the facts which are absolutely not in controversy, I have considered, in the interest of justice and in order to avoid any further confusion, to declare Opposite Party No. 2 a juvenile in the present proceeding.



11. This application is dismissed with the observations and directions, as above.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N.A.
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