

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.678 of 2016

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1. Rohit Rai Son of Osihar Rai R/o Village and P.O. - Chainpur, P.S.-
Hathuwa, District Gopalganj.

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Yogendra Prasad Sinha
Mr. Suresh Prasad

For the State : Mr. Kumar Ranjit Ranjan

For the informant : Mr. Ranjeet Kumar Pandey

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

4 02-02-2017 Heard learned Counsel for the petitioner,

learned Counsel for the informant and learned Additional

Public Prosecutor representing the State.

The petitioner is a juvenile in conflict with law and an accused in Hathua Police Station Case No. 30 of 2015, which has given rise to J. E. No. 88 of 2015, before the Juvenile Justice Board, Gopalganj. The First Information Report of the said Hathua Police Station Case No. 30 of 2015 discloses offences punishable under Sections 341, 323, 324, 307, 379, 385, 504 read with Section 34 of the Indian Penal Code, to which Section 302 of the Indian Penal Code was added later on. In the said case, the petitioner and his father, Oshihar Rai, have been implicated as accused.



Briefly narrated case of the prosecution is that the accused persons were demanding fish from the informant by way of extortion and because of non-fulfillment, the accused persons intercepted the informant's brother and the father of the petitioner is said to have assaulted the informant's brother on his head, which is said to be the fatal blow. The petitioner, according to the case of the prosecution, was accompanying his father and he assaulted the deceased on his hand with a knife.

The petitioner's application for his release on bail has been rejected by the Juvenile Justice Board, Gopalganj, by order, dated 03.05.2016, which has been affirmed by the learned Sessions Judge, Gopalganj, by an order, dated 07.06.2016, passed in Criminal Appeal No. 82 of 2016, which is under challenge in the present criminal revision application, filed under Section 53 Juvenile Justice (Care and Protection of Children) Act, 2000.

Pursuant to an order of this Court, dated 09.01.2017, the Principal Magistrate, Juvenile Justice Board, Gopalganj, has submitted a report as regards the stage of enquiry contemplated under Section 14 of the Juvenile Justice (Care and Protection of Children) Act, 2000, from which it appears that there is no progress at all in the enquiry for one reason or the other.



Learned Counsel for the petitioner has submitted that father of the petitioner has been allowed bail by an order, dated 13.10.2015, passed in Criminal Misc. No. 39948 of 2015 by this Court. He has also submitted that the Courts below have denied bail on erroneous consideration on the basis of social investigation report submitted by the Probation Officer. The petitioner is in Observation Home/under custody since 11.03.2015.

Learned Counsel appearing on behalf of the informant, on the other hand, has vehemently opposed this application and has submitted, with reference to the order passed by the learned Appellate Court, that social investigation report is against the petitioner and it will not be in the interest of justice to release the petitioner on bail.

I have perused the orders passed by the Juvenile Justice Board and the learned Appellate Court. The petitioner is in custody/Observation Home since March, 2015. His father, who is an accused in the same case and against whom there is main allegation of assault, has been allowed bail. The enquiry has not, at all, progressed despite lapse of nearly two years.

In the circumstance, I consider it to be fit case where the petitioner should be released on bail.

Accordingly, this revision application is allowed.



The order, 03.05.2016, passed by the Juvenile Justice Board, Gopalganj, and the order, 07.06.2016, passed by the learned Sessions Judge, Gopalganj, are set aside.

Let the petitioner be released on bail on furnishing an affidavit by his father to the effect that he will look after the interest of the petitioner and will not allow him to fall in bad company. In addition to the affidavit, the father of the petitioner will also be required to furnish personal bond of Rs. 10,000/- with two sureties of the like amount each to the satisfaction of the learned Juvenile Justice Board, Gopalganj, in connection with J. E. No. 88 of 2015. On furnishing of such affidavit and sureties, the petitioner shall be released on bail.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

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