

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.935 of 2016

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

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1. Md. Gulab Son of Md Mustkim, Juvenile under the guardianship of his natural father Md. Mustkim resident of Village- Ekram Nagar, Naya Tola, P.S.- Muffasil, District- Munger

.... Petitioner/s

Versus

1. The State of Bihar.

2. Md. Ibrar Son of Md. Mobin resident of Village- Benigir, P.S.- Muffasil, District- Munger

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Adya Singh
Mr. Manoj Kumar

For the State : Mr. (Dr.) Mritunjay Kumar Gautam

For the Informant : Mr. Arvind Kumar Singh

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

JUDGMENT AND ORDER
ORAL

Date: 17-01-2017

Heard learned Counsel for the petitioner, learned Counsel appearing on behalf of the informant and learned Additional Public Prosecutor representing the State.

2. By order, dated 25.07.2016, passed by learned Additional Sessions Judge V, Munger, the petitioner's appeal, preferred under Section 52 of the Juvenile Justice (Care and Protection of Children) Act, 2000, giving rise to Criminal Appeal No. 21 of 2016, has been dismissed and, thus, the Corut below has affirmed the order, dated 18.05.2016, passed by the Juvenile Justice Board, Munger, in J.J.B. Case No. 03 of 2016, arising out of Muffassil Police Station Case No. 03 of 2016, refusing petitioner's release on bail.



3. The present criminal revision application, under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, has been filed against the said order, dated 25.07.2016.

4. The petitioner is, admittedly, a juvenile and is accused in Muffassil Police Station Case No. 03 of 2016, registered for the offences punishable under Sections 302 of the Indian Penal Code and Sections 25 (1-B) (a)/26/27 of the Arms Act, 1959.

5. It is submitted on behalf of the petitioner that in view of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000, the petitioner has a right to be released on bail and it can be refused only if one or more than one of the circumstances, as mentioned in the proviso to sub-Section (1) of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000, exist. He has submitted that the learned Additional Sessions Judge V, Munger, has nowhere mentioned that the petitioner's release will expose him to moral, psychological or physical danger or if released on bail, he may fall in association with the known criminals.

6. Learned Counsel for the petitioner appears to be right in his submissions. The Court below has not taken into account proviso to Section 12 (1) of the Juvenile Justice (Care and Protection of Children) Act, 2000, while considering the petitioner's prayer for grant of bail.



7. The order, dated 25.07.2016, is accordingly set aside. The matter is remitted to the Court of learned Additional Sessions Judge V, Munger, for passing an order afresh after taking into account the proviso to sub-Section (1) of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000,. Such order must be passed within a period of three months from today.

8. It is further directed that if the enquiry, as contemplated under Section 14 of the Juvenile Justice (Care and Protection of Children) Act, 2000, has not been completed so far by the Juvenile Justice Board, Munger, the Juvenile Justice Board, Munger shall ensure that the enquiry is completed within a period of three months from the date of communication of the present order.

9. If, despite the present order, the enquiry is not completed with the aforesaid period of three months, the non-completion of the enquiry will be an additional ground for the petitioner to seek his release on bail.

10. This application is allowed with the observations and directions, as above.

(Chakradhari Sharan Singh, J.)

Prabhakar Anand/-

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	18.01.2017
Transmission Date	18.01.2017

