

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Criminal Revision No.699 of 2017**

=====

Manish Kumar, Son of Ramakant Singh, Resident of Village- Jaus, P.S.- Barhaiya,  
District- Lakhisarai.

.... .... Petitioner/s

Versus

1. The State of Bihar.  
2. Uma Shankar Prasad, Son of Late Anirudh Prasad, Resident of Mohalla- M.P.  
Dwivedi Road, Masjid Gali, P.S.- Kotwali, District- Bhagalpur.

.... .... Respondent/s

=====

**Appearance :**

For the Petitioner/s : Mr. Praveen Kumar, Advocate.

For the Respondent/s : Mr. Md. Mukhtar Alam, A.P.P.

=====

**CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR**

**ORAL JUDGMENT**

**Date: 13-11-2017**

Heard learned counsel for the petitioner and learned  
counsel for the State.

2. Petitioner has preferred this revision application  
against the impugned order dated 24.04.2017 passed by the learned 3<sup>rd</sup>  
Additional District and Sessions Judge, Bhagalpur in S.T. No. 396 of  
2016, arising out of Kotwali P.S. Case No. 645 of 2005, thereby  
rejected the case of the petitioner holding him not juvenile.

3. A brief fact of the case is that FIR of the present case  
was instituted under Section 302 and 201 of I.P.C. against unknown  
persons and the charge sheet was submitted against the petitioner  
describing his name as Manish Kumar @ Amit @ Anil Singh.

4. Learned counsel for the petitioner assails the  
impugned judgment on the ground that no reasoning is assigned by



the court for not entering into the enquiry for ascertaining the age of the petitioner, which is mandatory in view of earlier provision of the Juvenile Justice (Care and Protection of Children) Act, 2000, which is applicable in the present case, as the case is of the year 2005. The application of Section 7A of the Act is mandatory in the sense that whenever any person claims juvenility and this issue is raised before the Juvenile Justice Board or a court claiming juvenile on the date of occurrence, it becomes mandatory for the court or the Juvenile Justice Board to conduct enquiry for ascertaining the age of the accused. The determination of age of the accused has to be done as per provisions contained in the Juvenile Justice (Care and Protection of children) Act, 2000 and Juvenile Justice (Care and Protection of children) Rules, 2007 and the present case is of the year 2005. A detailed provision is made therein, so what documents are to be given preference for deciding the age of the person concerned. He further submits that copy of the matriculation certificate of the petitioner issued by the Bihar School Examination Board was submitted before the court but without embarking on any enquiry, the impugned order was passed.

5. Having considered the rival submissions and on perusal of record specially impugned order, reasoning given by the 3<sup>rd</sup> Additional District and Sessions Judge, Bhagalpur is not sustainable.



The court has declined to enter into enquiry only on two grounds, firstly, that there are three alias names of the accused-petitioner and by physical appearance, he looks major. The court has overlooked the fact that occurrence is of the year 2005 and the impugned order is passed on 24.04.2017, so by efflux of time, a minor becomes major. So at this stage by seeing physical appearance, petitioner can not be held major at the time of occurrence. Secondly, this is also not a valid ground declining to embark on enquiry for age determination because the petitioner has got three alias names. Matriculation certificate is in the name of Manish Kumar rather the first name given in the charge sheet mentions the same name including his parentage as well as residence. In view of then existing law enforced before amendment in the year 2015, as per Section 7A, it was mandatory for the Juvenile Justice Board or the court to enter into enquiry regarding determination of age of the person concerned on the date of alleged commission of offence. Therefore, impugned order dated 24.04.2017 passed by the learned 3<sup>rd</sup> Additional District and Sessions Judge, Bhagalpur in S.T. No. 396 of 2016, arising out of Kotwali P.S. Case No. 645 of 2005 is set aside and the court is directed to enter into enquiry as per the Rule concerned. It is also observed that during enquiry, genuineness of the matriculation certificate may be verified from the Board concerned and thereafter to pass an appropriate order



regarding juvenility of the petitioner.

6. With this observation, this revision application stands allowed.

**(Arun Kumar, J)**

Sujit/-

|                   |      |
|-------------------|------|
| AFR/NAFR          | NAFR |
| CAV DATE          | NA   |
| Uploading Date    |      |
| Transmission Date |      |

