

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.233 of 2018

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Niraj Kumar, son of Sanjay Paswan, Resident of Village-
Shivri Gopinathpur, P.S.- Saraiya, District- Muzaffarpur.
Niraj Kumar minor who is in under Guardianship of his
father Sanjay Paswan, son of Ramvachan Paswan, Resident
of Village- S. Gopinathpur, P.S.- Suraiya, District-
Muzaffarpur.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shaishav Kumar, Adv.

For the State : Mr. Anand Mohan Pd. Mehta, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

- 3 22-03-2018 The age of the juvenile/petitioner was assessed
to be more than 16 but less than 18 years of age. He has
been made accused in Ahiyapur P.S. Case No. 173 of
2017, dated 12.03.2017, which has been instituted for
the offence punishable under Sections 302/34 of the
Indian Penal Code.



Since the juvenile/petitioner was held to be more than 16 years of age, his case was transferred to the Child Court, viz. the Court of learned 1st Additional District & Sessions Judge, Muzaffarpur.

As far as the merit of the case is concerned, four persons including the juvenile/petitioner are alleged to have killed the father of the informant. Two of the accused persons are alleged to have caught hold of the deceased, whereas the other two, including the juvenile/petitioner, assaulted him by means of knife, leading to his death. The *post-mortem* report of the deceased, however, revealed that there was only one injury on the person of the deceased. Taking advantage of the aforesaid single injury on the deceased, in the background of two persons were alleged to have assaulted him, the other co-accused who was also alleged to have given a dagger blow on the deceased, was granted bail by a Bench of this Court.

However, the prayer of the juvenile/petitioner for being released from the remand home, where he has been lodged since 26.08.2017, has been rejected by the learned Child Court on consideration of the fact that he is an accused of a heinous case as defined under Section



2(33) of the Juvenile Justice (Care & Protection of Children) Act, 2015 and the manner of occurrence discloses that the juvenile/petitioner has behaved like an adult in taking away the life of an individual.

Learned counsel appearing for the juvenile/petitioner, however, has submitted that the order is not fit to be sustained in the eyes of law because the learned Child Court did not address himself to the issues, viz. whether the juvenile/petitioner is required to be tried as an adult or that he requires an individual care plan for his rehabilitation, which would have included a follow-up report by a Probation Officer or the District Child Protection Unit or a social worker.

It has further been submitted that under the Juvenile Justice (Care & Protection of Children) Model Rules, 2016, the Child Court was required to follow the procedure prescribed by the Code of Criminal Procedure of trial by Sessions, but had to maintain a child friendly atmosphere which invariably includes the individual care plan of the child.

A Child Court has to address itself on various issues, viz. that it would be expedient to try a juvenile as an adult and that whether it would be for the benefit of



the child that he be sent to a place of safety, till attaining the age of 21 years.

From the order impugned, it appears that the learned Child Court, except for assessing the individual act of the juvenile/petitioner in the crime and making discussions with respect to the manner of occurrence, has not at all adverted to the issues which have been referred to above and which the Court was required to go into as mandated by the Rules under the Act.

Learned counsel for the juvenile/petitioner has further submitted that two of the co-accused persons of this case are none else but the father and uncle of the petitioner, who have been released on bail.

Regarding being had to the fact that the juvenile/petitioner has remained in the remand home since 26.08.2017 and that other co-accused persons of this case, one being similarly situated has been granted bail as well as that juvenile/petitioner shall be under the care and guardianship of the family members, this Court is of the view that for the benefit of the juvenile/petitioner, he ought to be released from the remand home. There is nothing on the record to suggest that in case of his release, he will fall in bad company or



would not get a child friendly atmosphere in his home.

This Court is conscious of the fact that charges in this case have not yet been framed; nonetheless, it would only be expedient that the juvenile/petitioner be directed to be released from the remand home, but with a caveat that he shall attend the Court on all dates and shall not go out of the municipal limits of the town in which the Child Court is situated, without seeking prior approval of the Child Court.

Let the juvenile/petitioner, above named, be released from the remand home on his furnishing bail bond in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional District & Sessions Judge-Cum-Child Court, Muzaffarpur in connection with Ahiyapur P.S. Case No. 173 of 2017 (Trial No. 21 of 2017).

At the time of the release of the juvenile/petitioner, the Child Court shall ensure that any one of the bailors give an undertaking that the juvenile/petitioner shall visit the Child Court on all dates and shall not leave the municipal limits of Muzaffarpur without seeking prior approval of the Child Court.



With the aforesaid direction, the present revision petition stands disposed of.

(Ashutosh Kumar, J)

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