

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.87 of 2018

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Vivek Kumar Patel @ Shekhar Kumar, S/o Vijay Patel, R/o Rajguru Chowk, P.S.- Bettiah Town, District- West Champaran, at present bus stand Pokhara, P.S.- Bettiah Town, District- West Champaran, through his mother (natural guardian) Veena Devi, W/o Vijay Patel, R/o Rajguru Chowk, P.S.- Bettiah Town, District- West Champaran.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bimlesh Kr. Pandey, Adv.

For the State : Mr. Nagendra Prasad

For the Informant : Mr. Upadhya Saurabh Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 12-03-2018 The petitioner/juvenile, who has been made accused in Bettiah Muffasil P.S. Case No. 141 of 2017 for the offences under Sections 302, 328 and 120(B) of the Indian Penal Code, has been adjudged to be a juvenile on the date of occurrence. However, his age was held to be more than 16 years and less than 18 years on the date of the occurrence, thus making him liable to be assessed by the Juvenile Justice Board, Bettiah at West Champaran under



Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

This Court finds that such assessment of age was made by the Juvenile Justice Board and it was not found expedient to treat the petitioner as a juvenile for being tried for the aforesaid offences. Hence, the case of the petitioner was sent to the Children Court for him, to be tried as an adult.

From the perusal of the order passed by the learned 1st Additional District & Sessions Judge-Cum-Special Judge, Bettiah, West Chamaran in B.A. No. 2827 of 2017, it appears that the materials contained in the case diary weighed with the Court in refusing to grant bail to the petitioner. The allegation in the First Information Report lodged by the mother of two deceased girls is that she, in the night of the occurrence, heard sound of cries of his two daughters. When she went to the room in which they were sleeping, she found that they had been put on fire. One Navneet Neeraj and about 4-5 accused persons were seeing fleeing away. Though the petitioner was not named in the First Information Report by the informant, but he was arrested on the basis of confession of a co-accused. Later, the petitioner also confessed. Investigation report reveals that the petitioner was armed with a container of kerosene oil



which was used for setting fire to the two deceased ladies.

However, looking at the facts of the case, what becomes evident is that the petitioner is now being tried as an adult. He was not named by the informant and his name has only transpired in the confession of a co-accused. His confession also has been recorded by the police, but the same cannot be taken as admissible evidence against him.

One other co-accused person who is an adult has been granted bail by a Bench of this Court *vide* order dated 13.09.2017 passed in Cr. Misc. No. 44710 of 2017.

The petitioner/juvenile is in custody since 30.04.2017.

Regard being had to the fact that now the petitioner is being treated and tried as an adult though separately from the other co-accused persons, by the Children Court, this Court is of the view that he cannot be treated differently from the other accused persons, who are facing trial.

Considering the aforesaid facts and taking into account the period of custody of the petitioner, this Court directs for the release of the petitioner above named, subject to 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 concerned learned Children



Court, *i.e.*, 1st Additional District & Sessions Judge-Cum-Special Judge, Bettiah, West Chamaran in connection with Special Case No. 1 of 2017, arising out of Bettiah Muffasil P.S. Case No. 141 of 2017.

This revision petition is accordingly allowed.

(Ashutosh Kumar, J)

Praveen-II/-

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