

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.623 of 2018

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Ankit Kumar Singh @ Nikhil Kumar @ Ankit Kumar, S/o Sri
Hira Singh @ Jhingur Singh, under Guardianship of Sri Hira
Singh @ Jhingur Singh, S/o Shyam Bihari Singh, R/o Vill.-
Kala Dumara, P.S.- G.B. Nagar, District- Siwan.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Satyendra Rai, Adv.

For the State : Mr. Shailendra Kumar -2, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 26-06-2018 The age of the juvenile/petitioner was assessed
at 16 years by the order dated 22.03.2018. He has been
made accused in connection with G.B. Nagar P.S. Case No.
41 of 2018, dated 20.02.2018, instituted for the offence
under Sections 272, 273 and 308 of the Indian Penal Code
and Sections 30, 34 and 41 of the Bihar Excise Act, 2016

From the house of the juvenile/petitioner,
approximately 86 liters of Indian made foreign liquor was
recovered. He was found to be selling whisky bottles from
his house.



Learned counsel appearing for the juvenile/petitioner has submitted that he has remained in remand home for about four months by now and the house from where the recovery has not been any is not in his exclusive possession and he stays in the aforesaid house along with other members of the family.

However, from the orders passed by the Juvenile Justice Board, Siwan as also the Appellate Court (Children Court), it appear that there has been any assessment of the case of the petitioner under Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (*in short the "Act"*).

Section 15 of the Act reads as follows:-

15. Preliminary assessment into heinous offences by Board.-

(1) In case of a heinous offence alleged to have been committed by a chilled, who has completed or is above the age of sixteen years, the Board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence, and may pass an order in accordance with the provisions of sub-section (3) of



section 18:

Provided that for such an assessment, the Board may take the assistance of experienced psychologists or psycho-social workers or other experts.

(2) Where the Board is satisfied on preliminary assessment that the matter should be disposed of by the Board, then the Board shall follow the procedure, as far as may be, for trial in summons case under the Code of Criminal Procedure, 1973:

Provided that the order of the Board to dispose of the matter shall be appealable under sub-section (2) of section 101.

Provided further that the assessment under this section shall be completed within the period specified in section 14.

Since the aforesaid provision of the Act is mandatory in nature, the orders passed by the Juvenile Justice Board as also the Appellate Court cannot be sustained in the eyes of law. Consequently, they are set-aside.

The case of the petitioner is remitted to the learned Appellate Court for passing a fresh order in accordance with law after assessing the case of the petitioner



under Section 15 of the Act. The learned Appellate Court shall pass an order positively within a period of four weeks from the date of receipt/production of a copy of this order.

This Court, it is made clear, has not expressed any opinion on the merits of the case.

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

(Ashutosh Kumar, J)

Praveen-II/-

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