

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1061 of 2017

Arising Out of PS. Case No.-6 Year-2016 Thana- HAJIPUR SADAR District- Vaishali

Polu @ Saurav Kumar, Son of Mithilesh Kumar Akela @ Mithlesh Kumar, Resident of Village- Shahpur Patory, P.S.- Shahpur Patory, Dist- Samastipur. through his mother Madhu Kumari, Wife of Mithlesh Kumar Akela @ Mithlesh Kumar, Resident of Village- Shahpur Patory, P.S.- Shahpur Patory, Dist- Samastipur. Wrongly mentioned in chargesheet as Resident of Village- Naurangabad Dighi Kala, P.S.- Sadar Vaishali, District- Vaishali.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner : Mr. S.N.P. Sinha, Sr. Advocate.
Ms. Kanchan Kumari, Advocate.
For the Respondent : Mr. Dilip Kumar, APP.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

8 13-03-2018 The petitioner has challenged the order passed by the Juvenile Justice Board, Hajipur, Vaishali dated 26.05.2017 and the appellate order dated 10.08.2017 passed in Cr. Appeal No. 61 of 2017 whereby the prayer made on behalf of the petitioner/juvenile for being released from the remand home has been rejected and which order has been affirmed in appeal.

From the records, it appears that the petitioner has been made accused in a case under Sections 364, 302, 394 and 201 of the Indian Penal Code and Section 27 of



the Arms Act which would fall in the category of heinous cases as defined under Section 2(33) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the 'Act'). In such cases, a preliminary assessment has to be made by the Juvenile Justice Board in terms of Section 15 of the Act.

Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015 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 child, 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 (2 of 1974);*

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.

This Court does not find any such assessment having been either made by the Juvenile Justice Board or the learned appellate court.

As such, both the orders are quashed and the case is remitted to the Juvenile Justice Board for assessment regarding the mental and physical capacity of the petitioner to commit such an offence, his ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence.

The aforesaid order shall be passed within a period of thirty days from the date of production of a copy of this order.

Needless to state that if the petitioner is aggrieved by the order of the Juvenile Justice Board, he will be at liberty to avail the remedies which are available to him.



With the aforesaid observations, the revision
petition is disposed of.

krishna/-

(Ashutosh Kumar, J)

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