

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.894 of 2018

Arising Out of PS. Case No.-744 Year-2017 Thana- SAHARSA District- Saharsa

Tuktuk @ Keshav Krishna S/o Ashwini Kumar Singh, resident of Mohalla Sant Nagar, Hanuman Chowk, Ward No. 15, Gangjala Saharsa P.S. & District- Saharsa under the guardianship of father of petitioner namely Ashwini Kumar Singh, son of Prof. Upendra Narayan Singh, r/o mohalla Sant Nagar Hanuman Chowk, Ward No.15, Gangjala Saharsa, P.S. & Dist. Saharsa.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner/s : Mr. Diwakar Prasad Singh
For the Respondent/s : Mr. Arun Kumar Singh -5

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

4 14-12-2018 Petitioner has preferred this revision application against the judgment dated 17.5.2018 passed by 1st additional Sessions Judge, Saharsa in Cr.Appeal No. 06 of 2018 by which he has affirmed the order dated 12.2.2018 passed by Juvenile Justice Board (in short 'JJB') in Saharsa P.S.Case No. 744 of 2017 rejecting prayer for bail of the juvenile-petitioner.

Prosecution case, in short, is that informant heard sound of hulla and saw the petitioner and three other accused persons assaulting a boy and when informant and others came to rescue the boy they fled away.

On the basis of aforesaid fardbeyan Saharsa



P.S.Case No. 744 of 2017 was registered against the petitioner and others. It appears that petitioner has claimed himself to be a juvenile and he was declared juvenile and thereafter he prayed for bail and his prayer was rejected by the JJB vide order dated 12.2.2018 stating that there is allegation against the petitioner of stabbing the deceased and if he is released on bail he may expose to moral, physical or psychological danger and would defeat the ends of justice. However, the court has admitted that petitioner is a student.

Against the aforesaid order the petitioner preferred Cr.Appeal No. 06 of 2018, which was also dismissed by learned First Additional Sessions Judge, Saharsa vide order dated 17.5.2018 on the ground of gravity of the offence alleged.

Against the judgment and order of two courts below, this revision application has been filed on the ground that learned appellate court as well as JJB has not appreciated the provisions of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (in short '2015 Act'), which provides that such person shall not be so



released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person's release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.. However, there is no social investigation report available on record and in spite of that prayer for bail of juvenile-petitioner was rejected both by JJB and appellate court as also not considering the provisions of Section 12 of 2015 Act and rejected the prayer on the gravity of offence.

Submission of learned counsel for the petitioner is that there is no specific allegation against the petitioner of stabbing the deceased, rather four persons are named and one of co-accused Gabbar Ram, who has been declared juvenile, has been granted bail by this Court vide judgment dated 13.9.2018 in Cr.Rev.No. 708 of 2018 and case of the petitioner stands on same footing and he is in custody since 7.12.2017.

Heard learned APP also.



Having heard both sides and on perusal of the record it appears that no doubt learned JJB has rejected the prayer for bail of the petitioner on the ground that if he is released he may expose to social, physical or psychological danger. However, it appears that there was no social investigation report available at that time and learned court below has rejected the prayer for bail only on the basis of gravity of offence and learned JJB has observed that petitioner is a student. Later on father of petitioner has filed an application for bail to protect the petitioner from harden criminals and from exposure of moral, physical or pshchological danger.

Considering the entirety of the matter, the impugned judgment of appellate court dated 17.5.2018 and order passed by JJB dated 12.2.2018 are hereby set aside.

Petitioner is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of Juvenile Justice Board, Saharsa, in connection with Saharsa P.S.Case No. 744 of 2017, subject to the condition that one of the bailors of the petitioner shall be his father,



who will give an undertaking that he will take care of the petitioner and protect him from association of anti-social elements and further petitioner will be under the supervision of Probation Officer and if any adverse has come against the petitioner, prosecution is at liberty to move for cancellation of his bail bond.

With the above observation, this revision application is allowed.

(Vinod Kumar Sinha, J)

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