

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.438 of 2018

Arising Out of PS. Case No.-3 Year-2018 Thana- RUPASPUR District- Patna

Shishu Paswan @ Vishal Kumar, S/o TunTun Paswan, resident of Village- Aadarsh Bihar Colony Sadikpur Rukanpura, P.S.- Rupaspur, District- Patna, under guardianship of his mother Kusum Devi, resident of Village- Aadarsh Bihar Colony, Sadikpur Rukanpura, P.S.- Rupaspur, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Jay Ram Prasad
For the Respondent/s : Mr. Sri Navin Kumar Pandey

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

5 05-11-2018 Heard learned counsel for the petitioner and the State.

This revision application is directed against the order dated 28.03.2018 passed by Additional District & Sessions Judge -1st cum Special Judge POCSO, Patna in Cr. Appeal No. 64/2018, by which, the prayer for bail of the petitioner has been rejected and the order dated 17.02.2018 passed by the Juvenile Justice Board, Patna in J.J.B. Case No. 27 of 2018 was affirmed, by which, the bail of the petitioner was rejected.

Prosecution case as per the self statement of S.H.O. of Rupaspur is that on 3.01.18 at about 5.00 P.M., he got confidential information that at village Sadikpur Rukanpura one Tuntun Paswan @ Lal Badsah has been doing business of sailing ganja and he kept one person for sailing the ganja. On



that information, he proceeded there and arrested one person, who disclosed his name as Shishu Paswan (petitioner) and on search of his persons, 700 grams of ganja was recovered, who further disclosed the name of co-accused Tuntun Paswan @ Lal Badsah and from search of the rented house of the said co-accused 1 kg of ganja has been recovered.

Petitioner after his arrest, claimed himself to be juvenile. Accordingly, his age was assessed and he was found to be aged about 12 years 8 months and 6 days and was declared juvenile vide order dated 25.01.2018.

Thereafter, the petitioner moved before the Juvenile Justice Board, Patna for grant of bail, which was rejected on the ground that SBR and FIR shows that there is recovery from the possession of the child in conflict with law. Thereafter, the petitioner moved before the learned Additional Sessions Judge -I cum Special Judge POCSO Act, Patna for grant of bail by filing Cr. Appeal No. 64/17, which was also rejected vide order dated 28.03.2018 on the ground that if the petitioner is released on bail, there is every chance of his falling in association with known criminals.

Aggrieved by the above orders, the petitioner preferred the present revision application.



Contention of learned counsel for the petitioner is that there is no dispute that the petitioner is a juvenile in conflict with law as he is aged about 12 years 6 months and there is no social investigation report available on record to show that if the petitioner is released on bail, there is likelihood that he will fall in association with any unknown criminals rather SBR report has been submitted by the police and it is not the Social Investigation Report. Further he has been in custody for ten months.

Learned counsel appearing on behalf of the State opposed the prayer of the petitioner on the ground that release of the petitioner is abate him falling in association with criminals.

Considering the submission as well as facts and circumstances of the case, it appears that there is no social investigation report to show that there is chance that petitioner will fall in association with known criminals, if released on bail and further, there is no dispute that the petitioner is a juvenile in conflict with law and he has been in judicial custody for last ten months, as such, the petitioner, above named, is directed to be released from the remand home on his furnishing bail bond of Rs. 10,000 /- (Rs. Ten Thousand)/- with two sureties of like



amount each to the satisfaction of the Juvenile Justice Board, Patna, in connection with Rupaspur P.S. Case No. 03/18 subject to the condition that:-

One of the bailors of the petitioner shall be his father or mother, who at the time of filing of the bonds, shall also give an undertaking that they will prevent him from going into the association with hardened criminals and the petitioner during the period of his bail will also be under supervision of Probation Officer and in case petitioner does not act as per his advice, he will report the matter to the office – in – charge of the concerned police station.

With the above direction, this revision application stands allowed.

(Vinod Kumar Sinha, J)

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