

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1008 of 2018

Arising Out of PS. Case No.-273 Year-2017 Thana- BABUBARHI District- Madhubani

Rakesh Kumar Singh @ Rakesh Mahto S/o Nageshwar Mahto @ Nageshwar Singh, R/o vill.- Barail, P.S.- Babubarhi, District- Madhubani.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Manish Kumar No 13 with M/S Jitendra Kumar Bharti, Rohit Kumar, Advocates
For the Respondent/s : Mr. Rana Randhir Singh, APP

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

4 14-12-2018 This revision application is directed against the judgment dated 5.7.2018 passed by 1st Additional Sessions Judge, Madhubni in Cr.Appeal No. 37 of 2018 whereby and whereunder he has dismissed the appeal filed by the petitioner and affirmed the order dated 22/3/2018 passed by Juvenile Justice Board (in short 'JJB') in C.R.I. (G.R.) No. 2238 of 2017, Inquiry No. 965 of 2018, arising out of Babubarhi P.S.Case No. 273 of 2017 rejecting prayer for bail of the petitioner.

Prosecution case, in short, is that husband of the informant has not returned to the house and thereafter she suspected that father and brother of the petitioner with whom there was enmity had killed her husband, on the basis of which the present case has been lodged and later on petitioner has also



been made accused in this case on the application filed by informant. Petitioner claimed to be a juvenile and his age was assessed at 17 years 1 month 15 days and he prayed for bail before the JJB, which was rejected by JJB vide order dated 22.3.2018 on the ground that petitioner is a member of anti-social organisation and there is every chance that he has committed the offence and against the aforesaid order the petitioner preferred an appeal before the 1st Additional Sessions Judge, Madhubani, which was also dismissed vide judgment dated 5.7.2018 on the ground that as father of the petitioner is also an accused, as such, he has no control over his son.

Being aggrieved by the aforesaid judgment of appellate court and order of JJB the present revision application has been filed on the ground that petitioner has no criminal antecedent and his name transpired only on the basis of suspicion, whereas an accused, who is named in the FIR, has been granted bail by a co-ordinate Bench of this Court vide order dated 24.9.2018 in Cr.Misc. No. 43158 of 2018 and petitioner is in custody since 30.1.2018 and further there is no material available on record to show that petitioner has criminal association and social investigation report is also not available but in spite of that prayer for juvenile-petitioner has been



rejected by JJB, which has been affirmed by the appellate court.

Heard learned APP also.

Having heard both sides and from perusal of the record it appears that petitioner is not named in the FIR and except suspicion there is nothing against him and he is a juvenile. Furthermore, it appears that though prayer for bail of the petitioner has been rejected by JJB and appellate court but there is no report available on the record to show that petitioner has criminal association and there is chance of exposure with moral, physical or psychological danger if he is enlarged on bail.

In such view of the matter, this revision application is allowed. The impugned judgment dated 5.7.2018 passed by appellate court and the order dated 22.3.2018 passed by JJB are set aside.

The 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, Madhubani, in connection with C.R.I. (G.R.) No. 2238 of 2017, Inquiry No. 965 of 2018, arising out of Babubarhi P.S. Case No. 273 of 2017, subject to the condition that one of the bailors shall be a close relative of the petitioner,



not father and brother and further he will be under supervision of Probationary Officer and if any adverse is found against the petitioner, prosecution is at liberty to move for cancellation of his bail bond.

(Vinod Kumar Sinha, J)

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