

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.926 of 2017

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1. Raju Kumar @ Raju Thakur, son of Vijay Kumar @ Vijay Thakur,
resident of Village- Harnaut, P.S.- Harnaut, District- Nalanda through
natural guardian Vijay Kumar @ Vijay Thakur, son of Rameshwar Sharma,
resident of Village- Harnaut, P.S.- Harnaut, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Raj Kishor Prasad

For the Respondent/s : Mr. Sri Mustaque Alam

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

6 08-03-2018 The petitioner has challenged the order dated 23.05.2017 passed by the Juvenile Justice Board, whereby the prayer of the petitioner/juvenile for being released from remand home has been rejected, as well as against the order dated 21.07.2017 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Nalanda at Biharsharif in Juvenile Appeal No. 8 of 2017, whereby the appellate authority also has refused to interfere with the order passed by the Juvenile Justice Board referred to above in not releasing the juvenile from remand home.

A perusal of the orders impugned do not reflect that any assessment of the juvenile/petitioner was made as desired/mandated under Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

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.

(emphasis provided)

In the case in hand, the age of the juvenile has been assessed at more than 16 and less than 18 years on the date of the



occurrence by order dated 20.05.2017 which has been brought on record by way of supplementary affidavit. The date of occurrence of this case is 30.11.2016. Since the case has been instituted for the offence of murder, it falls in the category of heinous cases as defined under sub-clause (33) of Section 2 of the Act.

In that view of the matter, non-compliance of the provisions contained in Section 15 of the Act renders both the orders untenable in the eyes of law. The order passed by the learned Juvenile Justice Board as well as the appellate court are therefore set aside.

The case is remanded to the court of the learned Juvenile Justice Board to make a proper assessment of the juvenile in accordance with the provisions of Section 15 and thereafter pass a reasoned order within a reasonable period.

The Juvenile Justice Board shall fix a date within one week of the communication/production of this order and shall conclude the proceedings without any delay within a period of 30 days thereafter.

In case, the juvenile/petitioner is aggrieved by the order, he can avail of the remedies available to him under the law.

(Ashutosh Kumar, J.)

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