

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.191 of 2018

=====

Mithu Baitha, son of Bahi Lal Baitha, Resident of Village-
Bari Bazar Mohania, P.S.- Mohania, District- Kaimur.

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Viveka Nand Singh
For the Respondent/s : Mr. Sri Bhanu Pratap Singh

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 12-07-2018 The petitioner was declared a juvenile by the learned Juvenile Justice Board, Kaimur at Bhabua and his age has been assessed as more than 16 years on the date of occurrence.

The petitioner has been made an accused in connection with Mohania P.S. Case No. 92 of 2017 instituted for the offence under Section 396 of the Indian Penal Code.

The prayer made on behalf of the juvenile/petitioner for being released from the remand home was rejected by the learned Juvenile Justice Board, Kaimur at Bhabua in Juvenile Trial No. 516 of 2017 and the aforesaid order has been affirmed by the learned 1st Additional District & Sessions Judge, Kaimur at Bhabua by order dated 20.01.2018 passed in Cr. (Juvenile) Appeal No. 67 of 2017.

The reason assigned by the Juvenile Justice Board for



refusing to release the petitioner from the remand home is non-availability of any social investigation report. Similar ground has been assigned by the learned Appellate Court also.

From the perusal of the order passed by the Juvenile Justice Board as also of the Appellate Court, it appears that both the Courts below have not assessed the case of the petitioner in terms of Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Section 15 of the Act referred to above, 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."

In the absence of the preliminary assessment in a heinous offence by the Juvenile Justice Board or the Appellate Court, the order dated 13.11.2017 passed by the learned Juvenile Justice Board, Kaimur at Bhabua in connection with Mohania P.S. Case No. 92 of 2017 as well as the order dated 20.01.2018 passed by the learned Additional District & Sessions Judge, 1st, Kaimur at Bhabua in Cr.(Juvenile) Appeal No. 67 of 2017 are set aside.

The case is remitted to the Court of learned Juvenile Justice Board, Kaimur at Bhabua to assess the case of the petitioner in terms of Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and pass a reasoned order within a period of three weeks from the date of communication of the order or on presentation of the order before it.

Should the petitioner feel aggrieved by the order, he may approach the competent forum thereafter, which is available to him.

With the aforesaid observation, the present petition is disposed of.

(Ashutosh Kumar, J)

Shageer/-

U		T	
---	--	---	--

