

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.523 of 2018

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Dashrath Kumar Yadav, son of Kailu Yadav @ Yogendra
Yadav, Resident of Village - Kariyaut, P.S. - Laukahi, District
- Madhubani.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar Jha, Adv.

For the APP : Mr. Ahmad Ali, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 26-06-2018 The petitioner/juvenile seeks his release from the remand home, where he has been lodged since 28.10.2017 in connection with Laukahi P.S. Case No. 250 of 2017, instituted for the offence under Section 20(b)(ii)(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985. About seventeen and half kilograms of Ganja is said to have recovered from his possession.

The age of the petitioner/juvenile was assessed as more than 16 years and less than 18 years of age and the learned Juvenile Justice Board, Madhubani has sent the case to the Children Court for trial.



Perusal of the orders passed by the Juvenile Justice Board as also by the Appellate Court, makes it very clear that both the Courts have not adverted themselves to the requirement under Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (*in short the "Act"*).

Section 15 of the Act 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:

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.

Considering the aforesaid facts, both the orders impugned are set-aside.

The case of the petitioner/juvenile is remanded to the learned Children Court/Appellate Court for giving a fresh consideration over the matter after assessment of his case under Section 15 of the Act and pass an order in accordance with law within a period of four weeks from the date of receipt/production of a copy of this order.

Needless to state that this Court has not expressed any opinion with respect to the merits of the case and the case has been remanded to the learned Appellate Court for the reason that there has not been any assessment of the case of the petitioner under Section 15 of the Act.



With the aforesaid observation and direction, the present revision petition stands disposed of.

(Ashutosh Kumar, J)

Praveen-II/-

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