

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.837 of 2018

Arising Out of PS.Case No. -null Year- null Thana -null District- KHAGARIA

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1. Dilkhush Kumar, S/o Sri Devniti Yadav, Resident of Village- Chukti, P.S.- Mansi, District- Khagaria. Through his Father Namely Devniti Yadav, S/o Jeetan Yadav, Resident of Village- Chukti, P.S.- Mansi, District- Khagaria.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Vijay Anand.
Mr. Binod Kumar, Adv.

For the Respondent/s : Mr. Ajay Kumar Jha., APP

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA

ORAL JUDGMENT

Date: 17-09-2018

Heard the parties.

The present revision application has been preferred by the petitioner against the order, dated 30.06.2018, passed by the learned learned Additional Sessions Judge –Ist- cum- Special Judge, Khagaria, in Criminal Appeal No. 6/2018, by which, he has confirmed the order dated 07.02.2018 passed in Mansi P.S. Case No. 284 of 2017 for the alleged offences under Sections 25(1-B)A, 26 and 35 of the Arms Act, by Juvenile Justice Board, Khagaria, by which, the application for grant of bail of the petitioner was rejected.

There is no dispute that the petitioner is a child in conflict with law within the meaning of Section 2(13) of Juvenile Justice (Care and Protection of Children) Act, 2015. Learned counsel for the petitioner has submitted that in view of the mandate under



Section 12 of the Act, a child in conflict with law, is entitled to be released on bail unless the ground(s) referred to in proviso to Section 12(1) of the Act, exists/exist. He has submitted that though it has been mentioned in the impugned order that the petitioner's release is likely to expose him to moral, physical and psychological danger, no material has been referred in the said order, which is the basis for reaching the said conclusion by learned Court below.

Learned counsel, appearing on behalf of the petitioner appears to be right in his submission, on perusal of the impugned order that learned Court below has not referred to the material on record, which made him to form an opinion that release of the petitioner was likely to expose him to moral, physical or psychological danger as has been provided in proviso to Section 12(1) of the Juvenile Justice (Care and Protection of Children) Act, 2015, which reads as follows:-

“When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a Probation Officer or under the care of any fit institution of fit person] but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or



psychological danger or that his release would defeat the ends of justice”

In view of the above, this application is allowed. The order, dated 30.06.2018, passed in Criminal Appeal No. 6/2018 by the learned Additional Sessions Judge –Ist- cum- Special Judge, Khagaria , is set aside. 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, Khagaria, in connection with Mansi P.S. Case No. 284 of 2017 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 take good care of the petitioner and in case petitioner does not act as per their advice, they shall report the matter to the office – in – charge of the concerned police station.

This revision application stands allowed.

(Vinod Kumar Sinha, J)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	24.09.2018
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