

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.708 of 2018

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

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GABBAR RAM @ VIVEK KUMAR through his Father Visheshwar Ram @ Vijay Ram, S/o Visheshwar Ram @ Vijay Ram, R/o Vill.- Radiyaha, P.S. + District-Madhepura.

.... Petitioner

Versus

The State of Bihar

.... Respondent

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Appearance :

For the Petitioner/s : Mr. Ajit Kumar with Mr. Dinkar Kumar,
Advocates

For the Respondent/s : Mr. B.M.P. Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA

ORAL JUDGMENT

Date: 13-09-2018

Petitioner Gabbar Ram @ Vivek Kumar, who has been declared juvenile, has preferred this revision application against the judgment dated 17.5.2018 passed by learned In-charge 1st Additional District and Sessions Judge, Saharsa in Cr. Appeal No. 05 of 2018 arising out of the judgment and order dated 30.1.2018 passed by Juvenile Justice Board, Saharsa, arising out of Saharsa P.S.Case No. 744 of 2017 dated 16.7.2017 for the offence under Sections 302 and 34 of the Indian Penal Code, whereby and whereunder learned 1st Additional District and Sessions Judge has dismissed the appeal and confirmed the order of Juvenile Justice Board refusing prayer for bail of the petitioner.

2. Petitioner is named in the FIR and allegation is that he along with other accused persons has stabbed the deceased and



petitioner has been declared juvenile as he was found to be aged about 15 years 7 months on the day of occurrence.

3. Learned counsel for the petitioner has assailed that he has falsely been implicated and no specific role has been assigned to him, rather allegations are general against three persons, including the petitioner and petitioner is in custody for 14 months and maximum sentence for a juvenile is three years. Further submission is that the Social Investigation Report is also not available on the record and the Juvenile Justice Board considering the gravity of the matter has rejected the prayer for bail of the petitioner. It has also been submitted that considering the age of the petitioner he may be handed over under the control of the guardian, who are competent to take care of him and they may have control over the delinquent. However, learned Magistrate not satisfying with the aforesaid aspect of the matter has rejected the prayer for bail of the petitioner and the same has been affirmed by the appellate court also. As such, the judgment of learned appellate court as well as order of Juvenile Justice Board is not sustainable in the eye of law.

4. Section 12(1) of Juvenile Justice (Care & Protection of Children) Act, 2015 provides that when any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the police or appears or 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 person : provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person's release would defeat the ends of justice, and the Board shall record the reasons for denying the bail and circumstances that led to such a decision. However, in the present case, it appears that Juvenile Justice Board finding the heinous nature of offence came to the conclusion that if petitioner is released on bail he will be exposed to moral, physical or psychological danger though the Board has perused the Social Investigation Report but contents of the same have not been discussed and the Board is of the opinion that petitioner may be exposed to moral, physical or psychological danger and so far appellate court is concerned he has simple sewed by gravity of the offence and not considered that otherwise a juvenile conflicting with law is entitled to release on bail irrespective of the nature of offence.

5. In the present case, there is allegation against three accused persons, including the petitioner of stabbing the deceased and no specific allegation has been attributed against him and moreover he is in custody for 14 months.

6. Considering the entirety of the matter, the judgment and



order dated 17.5.2018 passed by 1st Additional District and Sessions Judge, Saharsa passed in Cr.Appeal No. 05 of 2018 is set aside and this revision application is allowed.

7. The petitioner, namely, Gabbar Ram @ Vivek Kumar is ordered 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, Saharsa in connection with Saharsa P.S.Case No. 744 of 2017 subject to the condition that one of the bailors must be his parent, who will give an undertaking to the effect that he/she will take care of the petitioner so that he may not indulge and in contact with bad elements of the society.

(Vinod Kumar Sinha, J)

spa/-

AFR/NAFR	
CAV DATE	
Uploading Date	15.9.2018
Transmission Date	15.9.2018

