

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.932 of 2018

Arising Out of PS. Case No.-637 Year-2017 Thana- SITAMARHI District- Sitamarhi

Abhishek Kumar @ Ayush Kumar S/o Saroj Singh, resident of Village-
Basant Bajpatti, P.S.- Bajpatti, District- Sitamarhi. Under guardianship of
Saroj Singh S/o Mahendra Singh, resident of Village- Basant Bajpatti, P.S.
Bajpatti, District- Sitamarhi.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Shatrughna Prasad S/o Late Satya Narayan Prasad Sah, R/o Mohalla- Lichi
Bagan, Sadar Aspatal Road, Ward No. 23, P.S.+ District- Sitamarhi.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dinesh Jha
For the Respondent/s	:	Mr. Sri Surendra Kumar

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL JUDGMENT

Date : 03-12-2018

This revision application has been preferred against the order dated 27.06.2018 passed by the learned Additional District Judge 1st -cum- Children Court, Sitamarhi whereby he has rejected the prayer of bail of the juvenile petitioner in connection with Sitamarhi P.S.Case No. 637 of 2017. It further appears that he is an accused in five other cases.

2. Prosecution case, as per the FIR, is that on 14.08.2017 at about 7:45 AM, one person aged about 25-30 years, came to the house of the informant and called his wife Anita Devi, upon which she came out from kitchen room and that person fired upon her due to which she died and the informant tried to catch the miscreant but he fled away. It is alleged that there is land dispute between him and his brother



who threatened him to kill his family.

3. On the basis of the aforesaid statement, the case has been registered against unknown person of aged about 25-30 years and one Bharat Prasad.

4. The petitioner, after his arrest, has claimed himself to be juvenile and by the order dated 18.01.2018 as it appears that his age was assessed by the Juvenile Justice Board (hereinafter referred to as the 'JJB'), after enquiry, as 16 years 08 months 25 days. It further appears that social investigation report and preliminary assessment report were called for from which it transpires that he was mentally fit and able to understand the consequence of the offence and as such the case was sent to the Children Court for further proceeding.

5. It appears that the petitioner has moved for bail before the Children Court and the Children Court vide order dated 27.06.2018 has rejected the prayer for bail of the petitioner.

6. Being aggrieved by above order, present revision application has been preferred, on the ground that petitioner is not named in the FIR, later on his name transpired on the basis of C.C.Tv. Footage and that C.C.Tv. was not installed at the place of occurrence rather at some distance. Furthermore, the



FIR shows that one another person, aged about 25-30 years, has fired whereas petitioner is aged about 16 years and odd and that falsifies the involvement of the petitioner. It has further been submitted that the learned Children Court has neither considered the social investigation report nor the provisions of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the 'Act') and rejected the prayer for bail only on the ground of gravity of the offence, which is against the spirit of Section 12 of the Act and petitioner is in custody since 21.08.2017 and up till now only substance of the accusation has been explained.

7. Heard learned A.P.P. also.

8. Having heard both sides and keeping in view the facts and circumstances, this revision application is disposed of with a direction to the petitioner to file a fresh application for bail before the Children Court, who will consider the prayer of bail of the petitioner in the light of Section 12 of the Act and disposed of the same.

(Vinod Kumar Sinha, J)

sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

