

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1070 of 2018

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1. Dinesh Kumar Sahni S/o and through his natural guardian Devendra Sahni S/o Bhuil Sahni, R/o Vill.- Rampur, Asurar, P.S.- Bhagwanpur, District- Vaishali.

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anish Chandra

For the Respondent/s : Mr. Sri Brajendra Nath Pandey

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 29-10-2018

Heard the parties.

The present revision application has been preferred by the petitioner against the order, dated 14.08.2018, passed by the learned Incharge Sessions Judge, Vaishali at Hajipur, in Criminal Appeal No. 46/2018, by which, he has affirmed the order dated 07.06.2018 passed by the Juvenile Justice Board, Vaishali at Hajipur (hereinafter referred to as the “JJB”) in Bhagwanpur P.S. Case No. 118/2017, G.R. No. 2518/2017, T.R. No. 986/2017, by which, the prayer of the petitioner for grant of bail was rejected.

Prosecution case in short is that the daughter of the informant was missing and the informant and others started searching the daughter of the informant and in course of search, her dead body was found in the *Maize* field and the informant



suspected the hand of petitioner and one Panchanand Sharma as earlier the deceased had seen the petitioner and co-accused Panchanand Sharma teasing a girl and due to which, they killed the daughter of the informant.

The petitioner after his arrest claimed himself to be juvenile and, accordingly, his age was assessed and he was found to be aged about 15 years 2 months and 18 days. Thereafter, the petitioner moved before the JJB, Vaishali at Hajipur for grant of bail, which was rejected by the JJB, Vaishali at Hajipur vide order dated 07.06.2018 on the ground that the offence committed by the accused is very heinous and the release of the petitioner would defeat the ends of justice.

Against the said order of JJB, the petitioner preferred Criminal Appeal No. 46/2018, which was also dismissed by the Sessions Judge, Vaishali at Hajipur vide order dated 14.08.2018.

Aggrieved by the above two orders, the juvenile-petitioner has preferred instant revision application.

Contention of learned counsel for the petitioner that 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 the prayer of the petitioner for grant of bail has been rejected by both the Courts below only on the ground that the offence is heinous, however, they failed to consider that the petitioner has been made accused only on the basis of suspicion and there is no eye witness of the occurrence and further other co-accused has already been enlarged on bail by this Court vide order dated 25.04.2018 passed in Cr. Misc. No. 19124 of 2018

Learned counsel for the State on the other hand opposed the prayer of the petitioner for grant of bail.

In view of the above facts and circumstances and as the name of petitioner has come only on the basis of suspicion and further there is no social investigation report is available on record, this application is allowed. Order, dated 14.08.2018, passed by the learned Sessions Judge, Vaishali at Hajipur, in Criminal Appeal No. 46/2018 as well as the order dated 07.06.2018 passed by JJB, Vaishali at Hajipur in Bhagwanpur P.S. Case No. 118/2017, G.R. No. 2518/2017, T.R. No. 986/2017, are 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, Vaishali at Hajipur, in connection with Bhagwanpur P.S. Case No. 118/2017subject 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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