

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1183 of 2018

Arising Out of PS. Case No.-292 Year-2018 Thana- BIHARSHARIF District- Nalanda

Gopal @ Medhak @ Rahul Kumar @ Rahul Singh

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Babita Kumari

For the Respondent/s : Mr. Sri Akhileshwar Dayal

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 20-11-2018

This criminal revision application has been directed against the order dated 27.08.2018 passed by the learned 1st Additional Sessions Judge-cum-Special Judge, Nalanda at Bihar Sharif, in Juvenile Appeal No.09 of 2018 arising out of Bihar P.S. Case No.292 of 2018 whereby and whereunder he refused the prayer for bail of the juvenile petitioner under Section 12 of the J.J. Act as well as order dated 26.07.2018 passed by the J.J. Board, Nalanda, in J.J. Board Case No.298 of 2018 by which the learned J.J. Board has rejected the prayer for bail of the petitioner.

The allegation against the petitioner who has been declared juvenile, is that on 21.06.2018 at 4.00 P.M. when the informant along with his cousin brother reached Shram Kalyan Kendra ground on scooter and after parking his scooter both started playing in course of which co-accused Gautam Kumar,



Gaurav Kumar, Anna Kumar, Vicky Kumar, including the petitioner Gopal @ Medhak @ Rahul surrounded him and Gautam Kumar demanded key of the scooty from the brother of the informant but he refused to give him the key upon which Gautam Kumar along with other co-accused started mar pit and Gautam Kumar assaulted him with pointed iron panja causing injury in his eye as a result of which he became unconscious. It is also alleged that the petitioner being a juvenile child in conflict with law assaulted the deceased with danda.

During the pendency of the case, the petitioner claims to be juvenile and the same was enquired and thereafter after enquiry the Juvenile Justice Board has found him juvenile vide order dated 06.07.2018 passed in J.J.B. Case No.298 of 2018. Thereafter he prayed for bail before the Juvenile Justice Board, Nalanda, Bihar Sharif, who vide order dated 26.07.2018 rejected rejected the prayer for bail of the juvenile petitioner on the ground that it is in the interest of the petitioner as he is required to be placed in remand home for regular counseling and to remove tension and criminal activity from him. Against the aforesaid order the petitioner preferred juvenile appeal being Cr.Appeal No.09 of 2018 which was also rejected by the 1st. Additional Sessions Judge- cum- Special Judge, Nalanda at



Biharsharif, on the ground that the release is likely to bring that the petitioner into association with any known criminal or expose him to moral, physical or psychological danger and also on the ground of probation report of the Probation Officer that the appellant is required extensive counseling and ethical education and training and such thing can be possible only in remand home and not in the open society.

Being aggrieved by the judgment of the appellate court affirming the order of the J.J.B. this revision application has been preferred on the ground that the petitioner is not the sole assailant and the allegation alleging in the F.I.R. that Gautam Kumar who has assaulted first to the informant and the deceased and later on assaulted by this petitioner also with lathi. Moreover, petitioner is a juvenile or a child in conflict with law and his age was assessed 16 years five months and twenty days. No social investigation report is available on the record whereas, Section 12 of the Juvenile Justice (Care and Protection of Children) Act. provides for bail unless the same does not expose the child and conflict with law to the social and psychological danger or it defeats the ends of justice. However, prayer for bail of the petitioner was rejected. He is in remand home since 24.06.2018.



Heard the learned A.P.P. and the informant who opposed the prayer for bail stating that the petitioner is aged more than 16 years and his release will expose him to the social, moral and psychological danger and, as such, there is no illegality in the impugned order of J.J.B. rejecting the prayer for bail and the order of appellate court, affirming the same.

Having heard both sides and from perusal of the record as stated above, it appears that the petitioner is child in conflict of law and he is found to be aged about 16 years, 5 months and 20 days and it further appears that even the learned appellate court while reject rejecting the prayer for bail of the petitioner has observed that the learned J.J.B. has rejected the prayer for bail of petitioner on gravity of the offence and not considered the ingredients of Section 12 of Juvenile Justice(Care and Protection of Children) Act 2015, however, dismissed the Appeal on the ground that if juvenile is released there is reasonable apprehension of exposing him to moral social and psychological danger and report of Probation Officer shows that he needs extensive counseling and ethical education which is possible in remand home only. However, learned appellate court failed to consider that father of the petitioner is ready to undertake that if he is given custody, he will protect



him from exposure and contact with hardened criminal. In such view of the matter, the present revision application is allowed, the impugned order dated 27.08.2018 of the appellate court as well as the order dated 26.07.2018 of the J.J.B., Nalanda, are set aside. The petitioner, above named, is directed to be released on bail on furnishing bail bond of Rs.10,000/- with two sureties of the like amount each to the satisfaction of the Juvenile Justice Board, Nalanda at Bihar Sharif, in J.J.B. Case No.298 of 2018 arising out of Bihar P.S. Case No.292 of 2017 subject to the condition that one of the bailors of the petitioner must be father of the petitioner who will protect the petitioner to come in contact with hardened criminal and he will remain under supervision of the Probation Officer who if finds anything adverse, may move for cancellation of his bail bond.

(Vinod Kumar Sinha, J)

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