

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.139 of 2018

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Md. Danish S/o Md. Sami @ Samim, R/o Mohalla- Garbipar,
P.S.- Chowk, District- Patna (under the Guardianship of his
father0.

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Arvind Kumar Mouar
For the Respondent/s : Mr. Smt. Pronati Singh

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

2 13-04-2018 The juvenile/petitioner seeks his release from the remand home where he has been lodged since 27.05.2017 in connection with Patna City Chowk P.S. Case No. 139 of 2017 dated 24.05.2017, instituted for the offence under Sections 377/34 of the Indian Penal Code.

The juvenile/petitioner is said to have sodomised the son of the informant.

On the date of the occurrence, the Juvenile Justice Board, on physical examination of the juvenile/petitioner, has assessed his age as 12-13 years. No enquiry, however was made by the Juvenile Justice Board with regard to the juvenility of the petitioner. However, the prayer for being released from the remand home was rejected by the Juvenile Justice Board on the ground that serious allegations were



levelled against him and the kind of occurrence which the juvenile is said to have committed gave an impression that he had a mature mind and he knew about the nature and quality of the act which he had committed.

The learned Appellate Court, by order dated 11.01.2018 passed in Cr. Appeal No. 191 of 2017, however found the victim to be of 16-17 years. There appears to be some error on record as the Appellate Court, in his order, has stated that the Juvenile Justice Board has assessed the age of the juvenile/petitioner as 16-17 years, but in fact, the assessment of the Juvenile Justice Board, as has been seen earlier, is only 12-13 years.

It further appears from the appellate order that the father of the juvenile/petitioner is a rickshaw-puller whereas his mother is a maid servant. The father of the petitioner is ready to undertake that he shall provide good care to his son.

Merely because the juvenile/petitioner comes from a poor strata of society, it cannot be presumed that he shall not be taken good care of by his parents.

Considering the aforesaid facts, the order dated 27.07.2017 passed by the Juvenile Justice Board, Patna in J.J.B. Case No. 307 of 2017, arising out of Patna City Chowk P.S. Case No. 139 of 2017, rejecting the prayer of the petitioner/juvenile for being released from juvenile home as



well as the order dated 11.01.2018 passed by the learned Additional Sessions Judge, 1st, Patna in Cr. Appeal No. 191 of 2017, affirming the aforesaid order, are set aside.

The petitioner/juvenile, above named, is directed to be released on his furnishing bond in the sum of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Principal Magistrate, Juvenile Justice Board, Patna in connection with J.J.B. Case No. 307 of 2017, arising out of Patna City Chowk P.S. Case No. 139 of 2017.

The parents of the petitioner shall be the bailors of the petitioner, who at the time of filing of their bonds shall furnish an undertaking that they shall take good care of his son and shall report about any disobedience of their son to the Officer-in-charge of the concerned Police Station.

The present revision petition is accordingly allowed.

(Ashutosh Kumar, J)

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