

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1237 of 2018

Arising Out of PS. Case No.-124 Year-2018 Thana- KHAJANCHI HAT District- Purnia

Rajeev Kumar @ Rajeev Yadav @ Rajiv Kumar @ Rajiv Yadav, Son of Shailendra Kumar @ Shailendra Yadav, R/o Village- Arvanna, P.S.- Barhara Kothi, District- Purnea under the guardianship of Shailendra Kumar @ Shailendra Yadav, Son of Yogendra Prasad Yadav, R/o Village- Arvanna, P.S.- Barhara Kothi, District- Purnea.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Dr. Bidhu Ranjan

For the Respondent/s : Mr. Sri Chandrasen Prasad Singh

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 17-12-2018 This revision application is directed against the judgment dated 26.09.2018 passed by learned 1st Additional Sessions Judge, Purnea in Cr. Appeal No. 46 of 2018, whereby and whereunder, the order dated 18.06.2018 passed by the learned Principal Magistrate, Juvenile Justice Board, Purnea, rejecting the prayer of the juvenile petitioner for grant of bail in connection with K. Hat P.S. Case No. 124 of 2018, has been affirmed.

Prosecution case in short is that in village Vidyapati Bagan Bigha, one unknown dead body was seen and the informant, who is Sub Inspector of Police, along with other police official reached there and tried to get the dead body



identified by the persons assembled there but no one could identify the dead body. Thereafter, during course of investigation, it transpired that the dead body was of one Brajesh Kumar and name of the petitioner also transpired in this case during course of investigation on confession of confession of other co-accused of this case.

Petitioner claimed himself to be juvenile and accordingly his age was assessed and he was declared juvenile vide order dated 01.06.2018 and found to be aged about 16 years, 10 months and 8 days on the date of occurrence. Thereafter, the petitioner prayed for grant of bail, which was dismissed vide order dated 16.06.2018 on the ground that release of the petitioner is likely to put him under social, physical or psychological danger.

Thereafter, the juvenile – petitioner moved before the 1st Additional Sessions Judge, Purnea for grant of bail in Cr. Appeal No. 46 of 2018 and the same was also dismissed vide judgment dated 26.09.2018 on the ground that the release of the petitioner will frustrate the ends of justice.

Aggrieved, the petitioner moved before this Court by filing the instant revision application.

Contention of learned counsel for the juvenile –



petitioner is that petitioner is not named in the F.I.R and except confessional statement of co-accused, there is not an iota of evidence to connect the petitioner in the offence. Further submission is 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 and in view of the mandate under Section 12(1) of the Act, a child in conflict with law, is entitled to be released on bail unless the grounds(s) referred to in proviso to section 12(1) of the Act, exist. It has also been submitted that the although, it has been mentioned in the impugned orders that the release of the petitioner is likely to put him under social, physical and psychological danger or his release will defeat the ends of justice, however, no materials have been referred by which, the court below formed the opinion that release of petitioner would likely to put him under social, physical and psychological danger or his release will defeat the ends of justice.

Having heard both sides, considering the facts and circumstances as well as the submission of learned counsel for the juvenile- petitioner, it appears that the name of petitioner transpired on confession of co-accused and it is also an admitted fact that the petitioner is a juvenile in conflict with law



within the meaning of Section 2(13) of Juvenile Justice (Care and Protection of Children) Act and it has rightly been submitted by learned counsel for the petitioner that both the courts below has opined that the release of the petitioner is likely to put him under social, physical and psychological danger or his release will defeat the ends of justice, however, no materials have been referred, so as to form such an opinion.

Accordingly, this application is allowed. Judgment dated 26.09.2018 passed by learned 1st Additional Sessions Judge, Purnea in Cr. Appeal No. 46 of 2018 is set aside. The petitioner above named is directed to be released on bail on his furnishing bail bond of Rs. 10,000 (Rs. Ten Thousand) with two sureties of like amount each to the satisfaction of Principal Magistrate, Juvenile Justice Board, Purnea in connection with K. Hat P.S. Case No. 124 of 2018, subject to the following conditions:-

one of the bailors of the petitioner will be his father, who at the time of filing of the bonds, will also give an undertaking that he will protect the petitioner from falling into association with any known criminal and further during the period of bail, the petitioner will be under the supervision of concerned Probation Officer and if anything adverse is found



against the petitioner, the prosecution will be free to move for
cancellation of bail of the petitioner.

(Vinod Kumar Sinha, J)

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