

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.574 of 2018

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Chhotu Kumar @ Chhotu Yadav @ Sheoshankar Kumar, S/o
Narayan Yadav, Resident of Village- Fadarpur, P.S.-
Daudnagar, District- Aurangabad, under the guardianship of
his brother Rajeshwar Kumar, S/o Narayan Yadav, Resident
of Village- Fadarpur, P.S.- Daudnagar, District- Aurangabad.

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishna Pd. Singh, Sr. Adv.

For the State : Mr. Lalan Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 26-07-2018 The petitioner has been dedared juvenile by the
Juvenile Justice Board, Aurangabad and his age has been
assessed as sixteen years and one month on the date of
the occurrence.

The petitioner has been made accused in
connection with Daudnagar P.S. Case No. 345 of 2017,
instituted for the offences under Sections 341, 323, 307,
379 and 504/34 of the Indian Penal Code. Later on,
Section 302 of the Indian Penal Code was also added.

From the perusal of the order passed by the



learned Juvenile Justice Board, Aurangabad, refusing the prayer of the petitioner for being released from the remand home, as also the Appellate Court order dated 18.04.2018, passed by the learned 1st Addl. Sessions Judge, Aurangabad in Cr. Appeal Nos. 20 of 2018/06 of 2018, it appears that both the Courts have not at all adverted and assessed the case of the petitioner in terms of Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

Section 15 of the Act referred to above, reads as follows:-

15. Preliminary assessment into heinous offences by Board.-(1) In

case of a heinous offence alleged to have been committed by a child, who has completed or is above the age of sixteen years, the Board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence, and may pass an order in accordance with the provisions of sub-section (3) of section 18:

Provided that for such an assessment, the Board may take the assistance of experienced psychologists or psycho-social workers or other experts.

(2) Where the Board is satisfied on preliminary assessment that the matter



should be disposed of by the Board, then the Board shall follow the procedure, as far as may be, for trial in summons case under the Code of Criminal Procedure, 1973 (2 of 1974):

Provided that the order of the Board to dispose of the matter shall be appealable under sub-section (2) of section 101.

Provided further that the assessment under this section shall be completed within the period specified in section 14.

For the aforesaid requirement being mandatory in nature, both the orders impugned cannot be sustained in the eyes of law and as such, they are set-aside.

The case of the petitioner is remitted to the Court of learned Juvenile Justice Board, Aurangabad for writing out a fresh order in accordance with law and after assessing the case of the petitioner in terms of Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015. The aforesaid order shall be passed without any delay, preferably within a period of four weeks from the date of receipt/production of a copy of this order.

Should the petitioner feel aggrieved by the order passed by the learned Juvenile Justice Board, Aurangabad, he would have the liberty to avail of his remedies provided to him under the law in that regard.



With the aforesaid observation and direction,
the present revision petition is disposed of.

(Ashutosh Kumar, J)

Praveen-II/-

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