

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.379 of 2018

Arising Out of PS. Case No.-245 Year-2016 Thana- PUPRI District- Sitamarhi

Baiju Mukhia S/o Siya Sharan Mukhia, R/o Vill.- Gadha (Near Khadi Bhandar), P.S.- Pupri, District- Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar

For the Respondent/s : Mr. Sri Ramchandra Singh

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 13-07-2018

The petitioner/juvenile seeks his release from the remand home where he has been lodged since 17.01.2017 in connection with Pupri P.S. Case No. 245 of 2016 which has been instituted under Sections 147, 148, 149, 341, 323, 307, 302 and 201 of the Indian Penal Code.

It has been alleged in the FIR that the petitioner and five others assaulted the father of the informant by means of *lathi, danda, fists and knife* leading to injuries on his person. He was brought to the hospital for treatment where during the course of treatment, he died.

Though in the body of the FIR, general and omnibus allegation has been levelled against all the accused persons but in the last part of the FIR, the



informant has stated that he learnt later that the fatal knife blow was given by the petitioner, who happens to be the nephew of the informant.

The petitioner was declared a juvenile by the Juvenile Justice Board, Sitamarhi by order dated 30.01.2018 and his age was assessed as 16 years and 7 months.

The learned Juvenile Justice Board, Sitamarhi assessed the mental capability of the petitioner in terms of Section 15 of the ***Juvenile Justice (Care and Protection of Children) Act, 2000*** and thought it fit to transfer the case of the petitioner to the Child Court for trial. The prayer for being released from the remand home but was rejected.

The learned appellate court, viz. the child court has also rejected the prayer of release of the petitioner from the remand home.

From the perusal of the appellate order, it appears that the court below has only gone on the allegation and has stated that the Probation Officer found the petitioner in a fit mental condition to understand the nature of quality of his act. That consideration is for the purposes of trying a juvenile in the child court and not for the purposes of releasing him on bail. There is nothing in the report of the Probation



Officer which would indicate that the petitioner shall fall in bad company, if he is released from the remand home. That apart, it has also not been taken into consideration by the appellate court that the allegations in the FIR are general and omnibus and the informant is not an eye witness to the occurrence. Only on hearsay information, he, in the last part of the FIR, has stated that the fatal blow was given by the petitioner. It has further been submitted that there is a family dispute and for that reason every member of the family including the petitioner, who is a juvenile, have been made accused.

Regard being had to the clean antecedent of the juvenile/petitioner, his period of custody and the nature of accusation, this Court deems it appropriate to direct for his release from the remand home.

The petitioner above named is directed to be released from the remand home on his furnishing bail bond in the sum of the Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Special Judge (Children Act), Sitamarhi in connection with Pupri P.S. Case No. 245 of 2016.

One of the bailors shall be the father of the petitioner, who at the time of filing his bonds, shall furnish an undertaking that he shall take good care of



his child and in case he finds that the juvenile/petitioner is not responding to his homilies, he shall report the matter straightway to the officer-in-charge of the concerned police station.

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

(Ashutosh Kumar, J)

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