

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.698 of 2018

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1. Jitendra Kumar Paswan @ Jitendra Paswan Son of Devendra Paswan resident of Village - Jhonjhi, P.S. Arer, District - Madhubani. Under guardianship of her mother Devasunari Devi @ Dev Sundri Devi wife of Devendra Paswan resident of Village - Jhonjhi, P.S. Arer, District - Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav

For the Respondent/s : Mr. Sri Ashok Kumar

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

4 01-11-2018

This revision application has been preferred against the judgment dated 23.3.2018 passed in Cr. Appeal No.27 of 2018 by which he had rejected the prayer for bail of the petitioner and affirmed the order dated 4.1.2018 passed by the Principal Magistrate, Madhubani , J.J.B. Board (hereinafter to be read as 'the J.J.B.') in EN.820 of 2018/G.R.No.641 of 2017 arising out of Arer P.S.Case no.88 of 2017.

The prosecution case in short is that some miscreants entered into the house of the brother of the informant for committing theft but on the sound of the brother of the informant, the informant went there and saw that the petitioner along with other accused persons were fleeing and also saw his brother dead



and later on the petitioner was arrested on chase and he has named the other accused persons also.

During the trial the petitioner claims himself to be juvenile and after enquiry his age was assessed to be 15 years, 03 months and 22 days, vide order dated 27.1.2017 passed by the J.J.B. The petitioner moved for bail before the J.J.B. and his prayer for bail was rejected by the J.J.B. on the ground that hands of the petitioner is apparent on the face of the first information given by the informant and granting him bail shall be exposure to the social, moral and psychological danger.

Against the aforesaid order of the J.J.B. the petitioner preferred appeal before the Sessions Judge, Madhubani and the appeal of the petitioner was rejected, vide judgment dated 23.3.2018 passed in Cr. Appeal No.27 of 2018 on the ground that the petitioner along with the other accused persons has committed crime and granting him bail shall be exposure to social moral and psychological danger and there is chance of further commission of such type of occurrence by the petitioner.

Being aggrieved by the aforesaid judgment of the learned appellate court as well as the order of the J.J.B., this revision application has been preferred on the ground that the learned J.J.B. has failed to consider that under Section 12 of the



Juvenile Justice (Care and Protection of Children) Act, 2015 petitioner is entitled for bail unless there is chance of his exposure to social, moral and psychological danger and without any social investigation report available on the record, the prayer for bail of the petitioner was rejected and the same was affirmed by the learned appellate court, which is against the spirit of the Juvenile Justice (Care and Protection of Children) Act, 2015.

The petitioner is in custody for one year and four months, and mother of the petitioner undertakes to abide by any condition imposed upon him.

Heard learned APP who has opposed the prayer for bail on the ground that hands of the petitioner is clear from perusal of the FIR during commission of theft and the brother of the informant was also killed and the impugned order also shows that there are injury over the person of the deceased and the petitioner was in company of other accused persons as such the prayer for bail has rightly been rejected by the learned J.J.B. as well as the same has been affirmed by the learned appellate court.

Having heard both sides and in view of the facts and circumstances, as stated above, it appears that the petitioner is named in the FIR and there is allegation against him that he along with other companion entered inside the house of the brother of



the informant and strangled him and committed theft and he was arrested on chase and the learned J.J.B. as well as the learned appellate court has refused the prayer for bail on the ground that he is in the company of anti social elements and on his release there is chance of his further involvement in anti social activities , however, it appears that social investigation report is not available on the record and further the mother of the petitioner is ready to take care of the petitioner and she will try to stop him from his involvement in such cases in future and furthermore there is no specific allegation alleged against him.

As such this application is allowed. The petitioner is directed to be released on bail on furnishing bail bond of Rs.10,000/- with condition that one of the bailor must be mother of the petitioner, who undertakes to prevent him from the contact of the anti social elements. Further he will be under the supervision of the Probation Officer, during his juvenility, and if any adverse report comes against him, the prosecution shall be at liberty to move for cancellation of his bail bond.

(Vinod Kumar Sinha, J)

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