

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.789 of 2018

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Parichay Jha @ Bansidhar Jha, Son of Late Prem Shankar Jha @ Situ Jha,
Resident of village –Samho Totaha, Police Station – Shamho, District –
Begusarai.

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar Singh

For the Respondent/s : Mr. Dr. Kumar Uday Pratap

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

4 25-09-2018

Heard the parties.

2. The present revision application has been preferred by the petitioner against the order, dated 07.06.2018, passed by the learned Additional Sessions Judge –I, Lakhisarai, in Criminal Appeal No. 27/2018, by which, the appeal of the petitioner for grant of bail against the order dated 10.04.2018 of Juvenile Justice Board, has been dismissed.

3. Prosecution case in short is that the informant Krishna Mohan Kumar had filed a written report before the S.H.O. Suryagarh stating therein that on the date of occurrence i.e. on 10.01.2018, he had withdrawn Rs. 3,00,000/- from the bank at about 3.00 P.M. and returned to his shop and on the same day at 8.30 P.M., he proceeded to his house and when he reached near house of one Mohan Babu, two persons on a motorcycle reached



near him and tried to snatch the bag from him and on protest by the informant one of the persons fired at him, which hit him on his chest and he fell down. On hearing the sound of firing, local persons assembled and they fled away and informant was brought to the hospital for treatment. On the basis of the aforesaid written statement of the informant Suryagarh P.S. Case No. 06 of 2018 was registered under Section 394 of the Indian Penal Code. Petitioner is not named in F.I.R., later on his name transpired during investigation.

4. Petitioner claimed to be juvenile and vide order dated 26.03.2018; the age of the petitioner was assessed as 17 years 08 months and 22 days. It further appears that the Juvenile Justice Board found that the petitioner is mature enough to know the nature and consequence of the offence and he referred the petitioner in Children Court under Section 18(3) of the Juvenile Justice (Care and Protection of Children) Act, 2015. Thereafter, the petitioner has moved for bail before the Children Court, Lakhisarai, which was rejected vide order dated 07.06.2018 passed in Cr. Appeal No. 27/18.

5. Submission of learned counsel for the petitioner that the petitioner is not named in the F.I.R and he has been made accused in this case only on the basis of suspicion and except suspicion, there is nothing against him and he has also not been



put in Test Identification Parade. It has also been submitted 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, 2015 and in view of the mandate under Section 12 of the Act, a child in conflict with law, is entitled to be released on bail unless the ground(s) referred to in proviso to Section 12(1) of the Act, exists/exist. He has submitted that although it has been mentioned in the impugned order that the petitioner's release is likely to bring him in association with criminals, however, no materials have been referred by which, the court below formed the opinion that release of petitioner would likely bring him in association with criminals.

6. Having heard both sides, from perusal of the record, it appears that the court below has opined that the release of the petitioner will bring him in association with criminals but as submitted by learned counsel for the petitioner, no material has been referred by the court below there is no social investigation report is available on record as has been provided in proviso to Section 12(1) of the Juvenile Justice (Care and Protection of Children) Act, 2015, which reads as follows:-

“When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is brought before



a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a Probation Officer or under the care of any fit institution of fit perso] but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice”

7. In view of the above, this application is allowed. The order, dated 07.06.2018, passed by the learned Additional Sessions Judge –I, Lakhisarai, in Criminal Appeal No. 27/2018, is set aside. The petitioner, above named, is directed to be released from the remand home on his furnishing bail bond of Rs. 10,000 /- (Rs. Ten Thousand)/- with two sureties of like amount each to the satisfaction of the Principal Member, Juvenile Justice Board, Lakhisarai, in connection with Suryagarh P.S. Case No. 6 of 2018 subject to the condition that:-

8. One of the bailors of the petitioner shall be his mother, who at the time of filing of the bonds, shall also give an undertaking that they will take good care of the petitioner and in case petitioner does not act as per her advice, she shall report the



matter to the office – in – charge of the concerned police station and further during period of bail, the petitioner will be under the supervision of concerned Probation Officer.

9. This revision application stands allowed.

(Vinod Kumar Sinha, J)

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