

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.273 of 2018

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Md. Sakir Alam @ Md. Sakir, Son of Md. Manjur @ Manjur Alam, Resident of Village- Siswan, P.S. Phulpras, District- Madhubani. Under guardianship of his father, namely, Md. Manzoor, resident of Village- Siswan, P.S.- Phulpras, District- Madhubani.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Gagan Deo Yadav, Adv.

For the State : Mr. Ajit Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

5 23-07-2018 The petitioner was dedared a juvenile and his age was assessed as more than 16 years by the learned Juvenile Justice Board, Madhubani by order dated 11.12.2017.

The petitioner has been made accused in a case instituted under Section 376 of the Indian Penal Code, wherein it has been alleged that he ravished the prosecutrix. The aforesaid allegation has been supported by the victim in her statement recorded under Section 164 of the Code of Criminal Procedure.



The prayer for being released from the remand home by the petitioner has been rejected by the Juvenile Justice Board, Madhubani as also by the Appellate Court *vide* judgment and order dated 20.02.2018.

From the perusal of the order passed by the learned Juvenile Justice Board, Madhubani as also the Appellate Court, it appears that both the Courts did not take into account that the petitioner has been made accused in a case of Section 376 of the Indian Penal Code, which is a heinous offence as defined under Section 2(33) of the Juvenile Justice (Care and Protection of Children) Act (*in short the 'Act'*), 2015. Since the petitioner's age has been assessed to be more than 16 years, his case was required to be assessed in terms of Section 15 of the Act. The Juvenile Justice Board was to take a call whether the petitioner ought to be tried as an adult before the Children Court.

Such consideration not having been made by the Juvenile Justice Board, Madhubani as also by the Appellate Court, both the orders are, hereby, set-aside as the aforesaid provision under the Act is mandatory in nature.

Let the case of the petitioner be transmitted to the Court of the Juvenile Justice Board, Madhubani for



assessment of his case in terms of Section 15 of the Act.

The Juvenile Justice Board shall pass an order in accordance with law within a period of four weeks from the date of production/receipt of a copy of this order.

Should the petitioner feel aggrieved by any order passed by the Juvenile Justice Board, Madhubani, he can avail of his remedies provided to him in accordance with law.

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

(Ashutosh Kumar, J)

Praveen-II/-

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