

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.666 of 2018

Arising Out of PS. Case No.-33 Year-2017 Thana- BITHAN
BAZAR District- Samastipur

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Manish Kumar @ Manish Kumar Yadav S/o Sunil Kumar @
Selkan Yadav @ Sunil Kumar Yadav, R/o Vill.- Jirauna, P.S.-
Kusheshwar Asthan, District- Darbhanga.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sada Nand Roy

For the Respondent/s : Mr. Sri Tapeswar Sharma

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 30-08-2018 The age of the petitioner has been assessed to be more than seventeen years but less than eighteen years on the date of occurrence. He has been made accused in connection with Bithan P.S. Case No. 33 of 2017 dated 16.02.2017 instituted for the offence under Section 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

The allegation in the F.I.R which has been lodged by the father of the deceased is that the petitioner and about four others came to his house and took away his



son(deceased). Later, on the cries of his son, he came out of his house and saw his son having been injured by gun shot injury. The deceased later succumbed to the injuries.

The learned counsel for the petitioner has submitted that because of the age of the petitioner being more than sixteen years and the offence falling in the category of heinous offence as defined under Section 2(33) of the Juvenile Justice (Care and Protection of Children) Act, 2015, the case of the petitioner has been assessed in terms of Section 15 of the Act. The Juvenile Justice Board after having found that the petitioner(juvenile) understood the nature and quality of his act, transferred the records of the case to the Child Court for trial and disposal. It has further been argued on behalf of the petitioner that the Child Court has not taken into account various necessary factors before rejecting the prayer of being released from the remand home. After the transfer of the records of the case to the Child Court under the provision of Section 18(3) of the Juvenile Justice (Care and Protection of



Children) Act, 2015, the Child Court is to consider and pass appropriate orders. The provisions contained in Section 12 of the Act referred to above is not totally excluded from consideration by the Child Court. It has further been submitted that there is no eye witness to the occurrence and the petitioner has been made accused because of some old village rivalry and local politics. One of the accused persons in this case, who is an adult, for the paucity of any direct charge against him, has been released on bail.

The petitioner/juvenile is in remand home/observation home since 05.05.2017.

There is nothing on record to reflect that the petitioner has fallen in bad company or there is a likelihood of further falling in bad company in case he is released from the remand home.

The petitioner does not have any criminal antecedent.

Considering the aforesaid facts, this Court deems it



appropriate to direct the release of the petitioner from the remand home.

The petitioner/juvenile, above named, is directed to be released on his furnishing bond in the sum of Rs. 10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge, Juvenile Court, Samastipur in connection with Bithan P.S. Case No. 33 of 2017.

One of the bailors shall be the father of the petitioner, who at the time of filing of his bonds shall furnish an undertaking that he shall take good care of his son and shall report about any disobedience of his son to the Officer-in-charge of the concerned Police Station.

The present revision petition is accordingly allowed.

(Ashutosh Kumar, J)

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