

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.393 of 2019

Arising Out of PS. Case No.-477 Year-2018 Thana- MADHAURAH District- Saran

NITESH DUBEY @ NITESH KUMAR DUBEY, aged about below 17 years above 16 years, Under Guardian of Father Namely Devendra Dubey, Resident of Village- Dehudi, P.S.- Taraiya, Distt- Saran at Chapra.

... .. Petitioner

Versus

THE STATE OF BIHAR

... .. Opposite Party

Appearance :

For the Petitioner : Mr.Vijay Kumar, Advocate.
For the State : Mr.Harendra Prasad, A.P.P.

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

6 19-09-2019 A supplementary affidavit has been filed on behalf of the petitioner. Let it be kept on the record.

Heard learned counsel for the petitioner and learned counsel for the State.

This Criminal Revision has been preferred against the order dated 31.01.2019, passed by learned 1st Additional Sessions Judge, Saran at Chapra in Criminal (Juvenile) Appeal No. 89 of 2018, whereby and whereunder learned 1st Additional Sessions Judge, Saran at Chapra, has upheld the order dated 03.11.2018, passed by learned Juvenile Justice Board, Chapra in Juvenile Justice Board Case No. 1625 of 2018, arising out of Marhaura P.S. Case No. 477 of 2018, whereby learned Juvenile Justice Board, Saran at Chapra, has rejected the prayer for bail



of the petitioner in connection with Marhaura P.S. Case No. 477 of 2018, registered under Sections 399, 402 of the I.P.C. and 25(1-b)a, 26 and 35 of the Arms Act.

The prosecution story, in brief, is that on 10.10.2018 around 5.00 A.M., the informant got secret information that twelve miscreants named in self statement have assembled at a lonely playground of Village-Somrahiya for a plan to commit offence. Informing his senior officer, a raid was conducted by the informant and his armed forces alongwith S.H.O., Baniyapur and this armed forces, seeing the police party, the miscreants started fleeing away, but three of them were apprehended who disclosed their names as Manish Kumar Singh, Nitesh Dubey (petitioner) and Yashwant Kumar and others managed to flee away. On search, an automatic Carbine loaded with five cartridges and two Mobile phones from possession of accused Manish Kumar Singh, and a country made loaded pistol, a cartridge and a Mobile phone were recovered from possession of Nitesh Dubey (petitioner). Accordingly, the police prepared seizure list. The apprehended miscreants also disclosed the names of their fled away associates.

It has been submitted by learned counsel for the petitioner that the petitioner is languishing in custody since



10.10.2018. The petitioner has got no criminal antecedent. Charge sheet has been submitted in the present case. One country made loaded pistol alongwith one cartridge and a Mobile are alleged to have been recovered from possession of the petitioner. There is no compliance of Section 100 of Cr. P.C.

The report of the Probation Officer is that the mental condition of the petitioner is found normal. The petitioner is good in study. He has passed out the Examination of Intermediate in Second Division. In the report, it is also suggested that the benefit of Juvenile Justice can be given to the petitioner. Further the report of the Probation Officer does not reveal that there is material to substantiate that the petitioner lacks proper parental care nor there is any conclusive finding by the Probation Officer that in the event of grant of bail the petitioner is likely to go into association of known criminals.

The law requires that reasonable grounds should be there for believing that in the event of grant of bail the petitioner would go into association of any “known criminal” or exposed to moral, physical and psychological danger or the release of the person would defeat the ends of justice. There is no reference of any known criminal nor there is any other substantial material for the conclusion as recorded by the court below.



Hence, the impugned order suffers from failure to exercise jurisdiction vested in law, is result of error apparent on the face of the record and non-consideration of provisions of law. Accordingly, this Criminal Revision is allowed and the order dated 31.01.2019, passed by learned 1st Additional Sessions Judge, Saran at Chapra in Criminal (Juvenile) Appeal No. 89 of 2018 and the order dated 03.11.2018, passed by learned Juvenile Justice Board, Saran at Chapra in Juvenile Justice Board Case No. 1625 of 2018, arising out of Marhaura P.S. Case No. 477 of 2018, are set aside.

Let the petitioner, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of either of his parents on execution of surety bond of Rs. 5,000/- (Five Thousand) to the satisfaction of learned Juvenile Justice Board, Saran at Chapra in connection with Juvenile Justice Board Case No. 1625 of 2018, arising out of Marhaura P.S. Case No. 477 of 2018, with condition that the petitioner shall be produced as and when required by the Juvenile Justice Board for co-operation of his enquiry.

(Sudhir Singh, J)

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