

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.407 of 2019

Arising Out of PS. Case No.-223 Year-2018 Thana- PHULWARIYA District- Gopalganj

RAJAN DIXIT aged about 16 years (Male) son of late Anirudh Dixit, R/o vill. Chamari Patti, P.S. Fulwariya, District Gopalganj, represented through Natural Guardian Mother namely Mina Devi wife of late Anirudh Dixit R/o vill. Chamari Patti, P.S. Fulwariya Dist. Gopalganj.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner/s : Mr. Shyama Kant Singh, Adv.
For the Respondent/s : Mr. Sanjay Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 16-12-2019

Heard learned counsel for the petitioner-revisionist and learned APP for the State.

The petitioner-revisionist was declared juvenile by the Juvenile Justice Board, Gopalganj. However prayer for bail of the petitioner-revisionist was rejected by the Juvenile Justice Board on 15.1.2019 in J. E. No. 156 of 2018 arising out of Fulwariya P. S. Case No. 223 of 2018, in a case under Sections registered under Sections 414/34 of the Indian Penal Code and the order of the Juvenile Justice Board was affirmed by the learned lower Appellate Court on 14.02.2019 in Cr. Appeal No. 14 of 2019. Both the orders were assailed in the instant Cr. Rev.



Application.

The brief fact of the case is that on 05.10.2018 at about 9:00 p.m., informant- S.H.O.,Fulwaria P.S. received information that two persons in suspicious condition were wandering on motorcycle on Lakari Mor and, on such information, he along with police- party arrived at Lakari Mor and found coming two persons on a motorcycle, bearing Registration No. BR-28F/7316, who noticing the police vehicle, tried to flee away but both were apprehended along with the said motorcycle by police-force and, on interrogation, both of them disclosed their identity as petitioner-revisionist and co-accused Amalesh Dixit, but they did not produce any paper of the motorcycle and confessed that the motorcycle is a stolen article and they also confessed that they have kept half a dozen bicycles in the *Bathan* of petitioner-revisionist and thereafter, on raid of the *Bathan* of petitioner-revisionist, one Hero Ranger and 5 general bicycles were recovered kept concealed behind the bags of fodder. Thereafter, seizure-lists of motorcycle and bicycles were prepared and both the accused persons were arrested in the allegation of keeping stolen articles. Hence, the F.I.R.

Learned counsel for the petitioner-revisionist submits that that he is in custody since 06.10.2018. It is further submitted



that the instant case i. e. Fulwaria P. S. Case No. 223 of 2018 has been instituted U/s 414/34 of the Indian Penal Code against petitioner-revisionist and co-accused Amalesh Dixit and both were forwarded and remanded in the instant case on 06.10.2018 and thereafter, on the basis of petition, the case of petitioner-revisionist was separated on 31.10. 2018 by the learned Court of Additional Chief Judicial Magistrate, -III, Gopalganj.

The petitioner-revisionist was *prima facie* found juvenile on the basis of certificate produced on behalf of petitioner-revisionist and after separating his case record, the petitioner-revisionist was sent to J.J. Board and the learned Principal Magistrate declared the petitioner-revisionist juvenile vide order dated 22.12.2018 as his age, on the alleged date of occurrence, was found 16 years, 5 months and 22 days and thereafter, the prayer for bail of the petitioner-revisionist has been refused by the learned Principal Magistrate, J.J. Board, Gopalganj vide order dated 15.01.2019.

Learned APP for the State vehemently opposed the prayer for bail of petitioner-revisionist and submitted that the impugned order is just and proper and in interest of petitioner-revisionist, the instant application is fit to be dismissed.

Unless there are reasonable grounds available on the



record including the report of the Child Welfare Officer to the extent that release of the juvenile in conflict with law is likely to expose him to moral physical or psychological danger or that otherwise such release would be detrimental to the interest of the child, the provisions contained in Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2000, suggest release of the juvenile from custody.

The Appellate Court of Sessions Judge, Gopalganj as well as the Principal Magistrate, Juvenile Justice Board, Gopalganj, in their orders, have not considered any such report on the basis of which any opinion regarding existence of such apprehension can be found and, in absence of such material to the contrary, the petitioner-revisionist being a juvenile, in conflict with law, should otherwise be released from custody.

It is, under such circumstances, the impugned order deserves to be quashed. Accordingly, both the orders passed by both the Court below are hereby set aside. However, having regard to the fact that the co-accused, Amlesh Dixit was not declared a juvenile, this Court would only observe that before releasing the petitioner-revisionist from custody, the Principal Magistrate, Juvenile Justice Board, Gopalganj shall take an undertaking from the mother of petitioner-revisionist to the



extent that she will take all possible steps to ensure that the petitioner-revisionist is kept in her safe custody and shall cooperate with the inquiry before the Juvenile Justice Board. The petitioner-revisionist be released, at once, after submission of such undertaking and sureties by his mother.

With the aforesaid observations, this application stands allowed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
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