

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1463 of 2018

Arising Out of PS. Case No.-181 Year-2017 Thana- MAHARAJGANJ District- Siwan

Resaw Kumar @ Resaw Raj son of Vijay Kumar @ Vijay Prasad @ Sant Jee, resident of village - Sihauta Bazar, P.S.- Maharjganj, District- Siwan. Under the guardianship of Anita Devi mother of the petitioner, aged about 41 years, wife of Vijay Kumar @Vijay Prasad @ Sant Jee, resident of village - Sihauta bazar, P.S.- Maharjganj, District- Siwan.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opp. Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar Singh, Advocate
For the State	:	Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 20-08-2019

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

2. The petitioner has moved the Court under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the 'Act') against the judgment and order dated 21.06.2018 passed by the 1st Additional Sessions Judge-cum- Special Judge, Siwan in Juvenile Appeal (Criminal Appeal) No. 23 of 2018 by which the order dated 07.03.2018 passed by the Juvenile Justice Board, Siwan in Juvenile Trial No. 200 of 2017 rejecting the prayer for release of the petitioner has been upheld.



3. Learned counsel for the petitioner submitted that the allegation is that there were five persons, including the petitioner, who had assaulted the deceased with knife but only three knife blows have been found on the body of the deceased, as per the postmortem. It was further submitted that the Juvenile Justice Board has rejected the prayer for release on the ground that the father of the petitioner is also an accused, which is erroneous. It was submitted that the mother has undertaken to keep the petitioner with full responsibility.

4. Learned APP submitted that the petitioner was part of the five persons who had assaulted the deceased with knife and, thus, they have been charged under Sections 302/34 of the Indian Penal Code. It was further submitted that on the date of occurrence the petitioner was beyond 16 years of age and the crime being heinous in nature, the petitioner can be tried as an adult after the Juvenile Justice Board conducts an enquiry with regard to his mental status.

5. Having considered the aforesaid and having perused the orders impugned, the Court does not find any error in the same. The Courts below have held that it is in the interest of the juvenile that he be not released to go back to his house as the father himself was an accused. Such reasoning is in consonance with the



requirement of the Act and it cannot be said to be erroneous for the reason that the child living together in the house where the father is also living and who is accused under Sections 302/34 of the Indian Penal Code, definitely cannot be said to be conducive to his own interest. Thus, rightly he has not been allowed to be released.

6. Accordingly, the Court does not find any ground to warrant interference in the orders impugned.

7. In view thereof, the application stands dismissed.

(Ahsanuddin Amanullah, J)

Anjani/-

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