

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL REVISION No 547 of 2019**

Arising Out of PS. Case No.-72 Year-2018 Thana- MAHILA P.S. District- Kaimur (Bhabua)

VIPIN KUMAR MALLAH @ VIPIN KUMAR S/o Shivmuni Mallah Under the guardianship of his father and Natural Gaurdian Shivmuni Mallah, S/o Prabhu Mallah, age 43 Years, all resident of village- Rampur, P.S.- Bhabua, P.O.- Rupur, Distt.- Kaimur (Bhabua)

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Aradhana Kumari D/o Ram Pravesh Choudhary R/o village- Sawath, P.O. and P.S.- Durgawati, Distt.- Kaimur (Bhabhua)

... .. Respondent/s

For the Petitioner/s : Mr.Radha Mohan Pandey  
For the Respondent/s : Mr.Murli Dhar

**CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD**  
**ORAL JUDGMENT**

**Date : 19-12-2019**

Heard learned Senior Counsel for the petitioner as well as the learned APP for the State.

2 The petitioner was subjected to preliminary assessment as contemplated under Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015 ( for brevity “the Act”). After due assessment of the physical and mental capability of the petitioner to commit the offence, to comprehend the consequences thereof and the circumstances in which the offence was committed, the matter has been referred to the Children’s Court for trying the offences against the petitioner (Juvenile), as an adult in view of the fact that the offence is



heinous in terms of Section 2(33) of the Act and the age of the petitioner is determined as 16 years 9 months and 22 days.

3 Petitioner is accused in a case lodged by the informant/victim aged about 17 years old for the offences under Section 376 of the Indian Penal Code and Section 4 of the POCSO Act. It is alleged that on the pretext of marriage, by putting vermilion upon her, the petitioner has abused her sexually and, thereafter, deserted her. The petitioner was tried before the Special Court in view of the heinous nature of crime and assessment made by the Juvenile Justice Board (for brevity, *the Board*) that the petitioner was conscious of the implications and was liable to be tried for the heinous offence being above 16 years of age. It is under such circumstances that he has been taken into custody and is in custody since 25.11.2018.

4 The petitioner moved for release before the Additional Sessions Judge I -cum- Special Judge, Kaimur at Bhabua in A.C.Tr. No 6 of 2019. Prayer has been rejected. Accordingly, the instant revision application has been filed seeking revision of the order dated 14.03.2019 passed by the learned Additional Sessions Judge I -cum- Special Judge in A.C.Tr. No 6 of 2019. The said case is arising out of Bhabua (Mahila) PS Case No 72 of 2018. The Court would consider the purport of Section



12 of the Act which favours release of a juvenile in conflict with law subject however to the assessment by the Child Probation Officer and social investigation report to ascertain whether his release would, in any manner, be detrimental to his physical, mental or psychological well being.

5 In the circumstances, this Court, under order dated 13.08.2019, called for a report. Copy of the report of Probation Officer of the Board, Kaimur at Bhabua, where the petitioner was declared to be juvenile, has been received along with the case diary. The same talks of some past association with friends and their bad influence. However, the Incharge Principal Probation Officer has recommended that it is desirable that the petitioner be given a family environment subject, however, to strict supervision, so as to restrain him from association with any antisocial elements.

6 Hence, the order dated 14.03.2019 passed by Additional Sessions Judge I -cum- Special Judge, Kaimur at Bhabua in A.C. Tr. No 6 of 2019 stands quashed and the petitioner is directed to be released at once on execution of surety bond by either of the parents of the petitioner giving undertaking that they shall keep proper care and upkeep of the petitioner and shall fully cooperate in the enquiry pending before the Board and on his furnishing bail bonds of Rs. 10,000/ (Ten Thousand) with two



sureties of the like amount each to the satisfaction of the Court of  
Additional Sessions Judge – I -cum- Special Judge, Kaimur,  
Bhauua in connection with Bhabua (Mahila) P.S. Case No.  
72/2018 (R-57/18).

(Madhuresh Prasad, J)

M.E.H./-

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