

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.768 of 2019

Arising Out of PS. Case No.-459 Year-2018 Thana- MAJORGANJ District- Sitamarhi

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ARUN KUMAR MUKHIYA @ ARUN KUMAR BIN @ ARUN MUKHIYA
@ Arun Kumar Mukhiya Son of Birendra Mukhiya @ Birendra Bin R/O
Village- Laxmipur Sukhchaina, Ward No. 2, P.S.- Malangwa, District-
Sarlahi, (Nepal), under the guardianship of Birendra Mukhiya @ Birendra
Bin, aged 44 year son of Laxmi Prasad R/O Village- Laxmipur Sukhchaina,
Ward No. 2, P.S.- Malangwa, District- Sarlahi, (Nepal).

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. The Union of India through DRI Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ashok Kumar Jha, Adv
For the Respondent/s : Mr.Binod Kumar, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL JUDGMENT

Date : 04-12-2019

Heard learned counsel for the parties.

2. This criminal revision application has been preferred under Section 102 of the Juvenile Justice (Care & Protection) Act against the order dated 24.04.2019 passed in Cr. Appeal No.18 of 2019/10 of 2019 by learned 1st Additional Sessions Judge-cum-Special Judge, Children Court, Sitamarhi and against the order dated 22.02.2019 passed in J.J.B. No. 1493 of 2018 (524 of 2019) (arising out of Mejarganj P.S.Case No.459 of 2018) by learned Principal Magistrate, J.J.B., Sitamarhi.

3. The petitioner is an accused in connection with Mejarganj P.S.Case No.459 of 2018 registered under Sections



8/20(b)(ii) of the N.D.P.S. Act. Petitioner was declared a juvenile in conflict with law on 03.01.2019 by the learned Juvenile Justice Board in J.J.B. No. 1493 of 2018 (524 of 2019). The petitioner made prayer for bail on 22.02.2019 in view of the provisions under Section 12 of the J.J.B. Act, 2015. The Board refused the prayer for bail by order dated 22.02.2019 on the ground that in the event of release there is every possibility that the petitioner would come in association of criminal and would commit another offence as well as on the ground that offence is heinous. The said order was challenged before the Children Court in appeal under Section 101 of the Juvenile Justice (Care & Protection) Act, 2015 vide Cr. Appeal No.18 of 2019. The prayer was heard by the learned Children Court and refused on 24.04.2019 on the basis of allegation that the petitioner was arrested alongwith narcotics and his release would raise every possibility that the petitioner would come in association of criminals and would commit another offence.

4. There is no dispute at the bar that Juvenile Justice (Care & Protection) Act is a beneficial legislation for protection of interest of the child in conflict with law besides other children and Section 12 of the Juvenile Justice (Care & Protection) Act, 2015 mandates that normally bail would be granted to the juvenile



irrespective of seriousness of the allegation against the juvenile. Only rider is that **if there appears reasonable ground for believing that the release is likely to bring the juvenile into association with any known criminal or expose the said person to moral, physical or psychological danger or the release would defeat the ends of justice.** The impugned order passed by the Board would reveal that there was no report of social investigation on social background of the petitioner nor there was material to substantiate the identity of the known criminals in whose association, the juvenile was likely to go. Therefore, the requirement for refusal of the bail is apparently not fulfilled and on mere surmises and conjectures, prayer for bail was refused. In the same way, the learned Appellate Court has acted with conjectures and surmises in concluding that there is likelihood of physical and psychological danger to the juvenile, if allowed to go free. Hence, in my view, orders passed by both the courts below suffer from judicial impropriety and inconsistency with the material on the record.

5. Hence, both the orders are hereby set aside 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.

6. With the aforesaid observation, this application is allowed.

(Birendra Kumar, J)

Nitesh/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	06.12.2019
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