

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.106 of 2018

Arising Out of P.S. Case No.-57 Year-2015 Thana- KHIJARSARAI District- Gaya

Nutan Kumari @ Runtan Devi, Wife of Chandan Kumar, resident of Village-
Mansa Bigha, Police Station- Khizar Sarai, District- Gaya.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Binod Kumar and Mr. Shailendra Kumar Singh, Advocates
For the State	:	Mr. Jharkhandi Upadhyay, APP

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL JUDGMENT

Date : 15-07-2019

Heard learned counsel for the petitioner and Mr. Jharkhandi Upadhyay, learned APP for the State.

2. Though basically the prayer of the petitioner before the Sessions Court below was that he was a juvenile and should be dealt with under the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the 'Act') but the Court below has rejected the prayer on the ground that the plea was belated.

3. However, learned counsel for the petitioner fairly admitted that the prayer should have been to the Court for conducting an enquiry as contemplated under Section 9(2) of the Act based on the materials which the petitioner had filed before the Court and thereafter consequences would have followed.



4. Having considered the matter, the Court finds that the ground taken by the Court below of rejecting the application filed by the petitioner, though the same may not have been happily worded, on the ground that the plea of juvenility has been taken belatedly, in the considered opinion of the Court, cannot be sustained. Law is settled, both by the Statute as well as the Courts, that plea of juvenility can be taken at any stage.

5. Learned APP also does not dispute the fact that the stage of taking a plea of juvenility is open at any stage.

6. For reasons aforesaid, the application is allowed.

7. The order impugned dated 27.07.2017 is set aside. It shall be open to the petitioner to file a fresh petition, in accordance with law, before the Court concerned for declaring him a juvenile enclosing all supporting documents/ materials/records available with him. If such a petition is filed, the Court below shall pass a reasoned order, in accordance with law, after holding an enquiry in terms of Section 9 of the Act, on the prayer of the petitioner, without being prejudiced by the present order.

(Ahsanuddin Amanullah, J.)

P. Kumar

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