

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.65 of 2019

Arising Out of PS. Case No.-345 Year-2017 Thana- DAUDNAGAR District- Aurangabad

Chhotu Kumar @ Chhotu Yadav @ Sheoshankar Kumar S/o Narayan Yadav,
Resident of Village-Fadarpur, P.S.- Daudnagar, District- Aurangabad.

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bhaskar Shankar

For the Respondent/s : Mr. Ram Priya Sharan Singh, APP

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 20-02-2019 A supplementary affidavit has been filed during the

course of the arguments. Let it be kept on record.

The petitioner, who is a Juvenile but within the age group of 16 to 18 years, has come before this Court against the order dated 04.09.2018 passed by the learned 1st Additional Sessions Judge (Children Court), Aurangabad in connection with G.R. No. 944 of 2017, arising out of Daudnagar P. S. Case No. 345 of 2017.

The petitioner / Juvenile was made accused in the aforesaid case which was initially instituted for the offence under Section 307 of the I.P.C. but with the death of the father of the informant, Section 302 I.P.C. was added. Since



the petitioner was less than 18 but more than 16 years of age and the case fell in the category of heinous cases as defined under Section 2(33) of the Juvenile Justice (Care and Protection of Children) Act, 2015, the case of the petitioner was sent to the Juvenile Justice Board. The Juvenile Justice Board, in the first instance, rejected the prayer of release of the petitioner, against which order, the petitioner preferred an appeal before the Children Court, Aurangabad, which also rejected the prayer for release. The petitioner came up before this Court vide Cr. Revision No. 574 of 2018. This Court, finding that there had not been any assessment of the petitioner under Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and the case of the petitioner had been transmitted to the Children's Court, Aurangabad for trial and disposal, the orders passed by the Juvenile Justice Board as also the Children Court was set aside with a direction to assess the case of the Juvenile / petitioner under Section 15 of the Act thereof. A fresh assessment of the petitioner was made by the Juvenile Justice Board, Aurangabad and the Board was



of the view that the petitioner / Juvenile was required to be tried by the Children Court. Thereafter, the Juvenile / petitioner moved before the Children Court for his release from the Remand Home where he has been lodged till the conclusion of the trial.

So far about the background facts of this case.

The petitioner along with his uncle is alleged to have assaulted the father of the informant who died. The assault initially was on the informant but when his father came to his rescue, the petitioner and his uncle are alleged to have assaulted the deceased by means of lathi. The dispute according to the F.I.R. is about pilfering cattle fodder from the cattle shed of the informant which is situated contiguous to the cattle shed of the petitioner's uncle. The uncle of the petitioner has been granted bail by a Bench of this Court, which order has been shown to this Court during the course of arguments.

From the perusal of the order passed by the Children Court, Aurangabad, it does not appear that any help was taken by the Appellate Court from the Probation Officer



in assessing that release of the petitioner from Remand Home would have the potency of allowing the petitioner to fall in bad company again. There is no reference of any Social Investigation Report and only on the ground of petitioner being an accused of a case of 302 I.P.C., the prayer for being released from the Remand Home has been rejected.

The order impugned, in the opinion of this Court, is not sustainable in the eyes of law and is therefore set aside.

The petitioner who has approached this Court through the agency of his brother is directed to be released from the Remand Home on his furnishing bonds in the sum of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the 1st Additional Sessions Judge (Children Court), Aurangabad in connection with G.R. No. 944 of 2017, arising out of Daudnagar P. S. Case No. 345 of 2017.

One of the bailors shall be the brother of the petitioner, who at the time of filing his bonds would furnish an undertaking that he shall take good care of the petitioner



and in case the petitioner displays any negative dispensation,
he shall bring the matter to the notice of the concerned
Officer Incharge of the police station forthwith.

The revision petition is allowed with the aforesaid
direction.

(Ashutosh Kumar, J)

skm/-

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