

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No 1234 of 2019

Arising Out of PS. Case No.-201 Year-2018 Thana- CHERIYA BARIYARPUR District-
Begusarai

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NITISH KUMAR, Son of Suresh Choudhary Resident of Village - Manjhaul,
P.S.- Cheria Bariyarpur, District- Begusarai, under the natural guardianship of
his mother namely Urmila Devi, W/O - Suresh Choudhary, Resident of
Village - Manjhaul, P.S.- Cheria Bariyarpur, District- Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sada Nand Roy

For the Respondent/s : Mr.Akshay Lal Pandit

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 18-12-2019

The prosecution case, on basis of which the matter has arisen, alleges that one co-accused Kanhaiya Kumar had come and taken away the informant's second son. When he did not return, search was made and behind his house in the southern east side of the field towards the tower, dead body of his son was recovered. It is under such circumstances that Kanhaiya Kumar, with two unknown persons, are alleged to have conspired and killed the son of the informant. Petitioner's name has been taken by the named accused Kanhaiya Kumar. The petitioner was declared as juvenile by the Juvenile Justice Board (for brevity, *the Board*) and the instant case arises out of rejection for prayer of release. By order



dated 25.06.2019, the Principal Magistrate of the Board, Begusarai rejected the petitioner's prayer for release. The same was assailed by the petitioner in appeal. Judgment of the Lower Appellate Forum dated 14.08.2019 passed in Criminal Appeal No 87 of 2019 rejecting the petitioner's prayer for release and dismissing the appeal is also assailed in the instant proceedings and a prayer is made that the petitioner be allowed the benefit of Section 12 of Child (Care and Protection) Act (for brevity, *the Act*) and set free.

2 On going through the order passed by the Lower Appellate Forum, this Court would observe that the clear mandate of Section 12 of the Act is in favour of the juvenile in conflict with law. Only where circumstances require that he be made to remain in custody so as to keep him away from bad company and safeguard his interest as a minor that the prayer for release is rejected. One of the basic criteria for assessing the circumstance is the social investigation report which is to be submitted in respect of the juvenile in conflict with law. The social investigation report in this case has also been submitted. Certified copy of the same has been produced in Court today. On the various parameters of assessment, the same projects a very normal and positive profile of the petitioner. However, since the name of the petitioner has been taken by the named accused Kanhaiya Kumar, this Court would



only observe that strict supervision would be required. There is no basis to arrive at a conclusion that release of the petitioner is likely to expose him to moral, physical or psychological danger.

3 The order dated 25.06.2019 passed by the Principal Magistrate of the Board, Begusarai in Cheria Bariyarpur Police Station Case No 201 of 2018 (GR No 421 of 2018 corresponding to Board No 50 of 2019) as well as order dated 14.08.2019 passed by Sessions Judge, Begusarai in Criminal Appeal No 87 of 2019 are hereby set aside.

4 Having regard to the aforesaid circumstances and taking into consideration the social investigation report, this Court would direct release of the petitioner forthwith, if not required in any other case.

5 While releasing the petitioner, the Board shall take an undertaking from the father of the petitioner regarding his safety.

(Madhuresh Prasad, J)

M.E.H./-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.12.2019
Transmission Date	24.12.2019

