

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1269 of 2018

Arising Out of PS. Case No.-98 Year-2017 Thana- BAKHARI District- Begusarai

Chandan Kumar Son of Late Punit Mahto, resident of Village-Ratan, P.S. Bakhri, Distt.-Begusarai, through his brother and guardian Mintu Kumar, son of Late Punit Mahto, resident of Village-Ratan, P.S. Bakhri, District.-Begusarai

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Praveen Kumar Agrawal

For the Respondent/s : Mr.Sri Sanjay Kumar Sharma

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

3 30-01-2019 The petitioner has challenged the order dated 03.08.2018 passed by the learned Additional Sessions Judge-I-cum-Special Judge, Children Court, Begusarai in JJCP Case No. 06 of 2018, arising out of Bakhri P.S. Case No. 98 of 2017 whereby the prayer of the petitioner for being released from the remand home has been rejected.

From the records of this Court, it appears that the petitioner was made accused in this case on the confession of a co-accused person and on the Police finding the location of the petitioner near the place of the occurrence through the CDR reports.

The petitioner being a juvenile but above the age



of sixteen years was produced before the Juvenile Justice Board, Begusarai which in its wisdom referred the case of the juvenile/petitioner to the Children's Court. The Children's Court also refused to release the petitioner from the remand home which led the petitioner to approach this Court in Cr. Revision No. 118 of 2018.

This Court vide order dated 08.05.2018, on discerning that no assessment of the petitioner was made under Section 15 of the Juvenile Justice (Care & Protection of Children) Act, 2015 before transferring the case of the petitioner to the Children Court, set aside all the orders and transmitted the records in this case to the Juvenile Justice Board, Begusarai for making a fresh assessment of the petitioner. Pursuant thereto, the Juvenile justice Board after assessing the mental and physical condition of the juvenile/petitioner again thought it fit to transfer the case to the Children's Court. The Children's Court, after having examined the records of this case and the social investigation report, declined to release the petitioner from the remand home.



Hence, the present petition.

The informant as well as the deceased were riding on a motorcycle and on coming near a building, the motorcycle was parked. The informant, who is a differently abled person went inside the building whereas in the meantime, the pillion rider was shot dead by the miscreants. The informant claims to have seen the occurrence when he came back from the building. Many persons were named in the F.I.R. The name of the petitioner only transpired later which was further confirmed by the investigation report by taking aid of the CDR report and finding the location of the petitioner to be near or at the place of the occurrence.

The prayer for release of the petitioner from the remand home has been rejected primarily on the ground of criminal dispensation of the juvenile/petitioner. The aforesaid assessment of the mental content of the juvenile/petitioner has been arrived at by the learned Children Court on the basis of the social investigation report.

The contents of the social investigation report have not been discussed in the order and it has only been stated



that it would be dangerous and would not be good for the benefit of the juvenile/petitioner that he be released from the remand home.

What the Children's Court missed to look at is that the petitioner does not have any criminal antecedents and that by now he has crossed the age of eighteen years and therefore he cannot be kept in the remand home; rather he should have been sent to a place of safety. Not having done so is a breach of the basic requirement of law.

In any view of the matter, there is nothing on record to suggest that the release of the petitioner from the remand home would further lead to the petitioner falling in the bad company.

The father of the petitioner is long dead but the petitioner has approached this Court through his elder brother who undertakes to keep good care of the juvenile/petitioner.

Considering the entire aspect of the matter, this Court deems it appropriate to release petitioner from the remand home.



The petitioner, above named is directed to be released from the remand home on his furnishing bail bonds of Rs. 10,000/-(Ten Thousands) with two sureties of the like amount each to the satisfaction of learned Additional Sessions Judge-I-cum-Special Judge, Children Court, Begusarai in connection with Bakhri P.S. Case No. 98 of 2017(JJCP Case No. 06/2018).

One of the bailors shall be the brother of the petitioner, who shall, at the time of furnishing of his bond shall also furnish a separate undertaking that he shall take proper care of his brother/petitioner and shall, in case of any unruly behavior of the petitioner, report the matter forthwith to the Officer-in-charge of the concerned Police Station. The brother of the petitioner shall also provide his mobile telephone number which he will keep in operative condition at all times till the conclusion of the trial.

This revision petition is thus disposed off.

(Ashutosh Kumar, J)

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