

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.39 of 2020

Arising Out of PS. Case No.-57 Year-2019 Thana- MAHINDWARA District- Sitamarhi

XXX

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Surendra Kishore Thakur, Advocate
For the Respondent/s : Mr. Nirmal Kumar Sinha, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 30-06-2020

The matter has been heard *via* video conferencing due to lockdown imposed on account of the COVID-19 pandemic.

2. Heard Mr. Surendra Kishore Thakur, learned counsel for the petitioner and Mr. Nirmal Kumar Sinha, learned Additional Public Prosecutor (hereinafter referred to as the ‘APP’) for the State.

3. Though the petitioner has given full description in the application, it would be inappropriate to disclose his identity in view of the statutory provisions prescribed under Section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (for short ‘the Act of 2015’). Thus, he is being referred to in the cause title as XXX.

4. Registry while uploading the order on the website shall also ensure that the cause title is reflected in similar



manner.

5. This criminal revision application has been preferred under Section 102 of the Juvenile Justice (Care & Protection of Children) Act, 2015, against the judgment dated 21.09.2019 passed by the 1st Additional Sessions Judge-cum Special Judge (Children Court), Sitamarhi, in Criminal Appeal No.54 of 2019 / 24 of 2019, whereby the appeal was dismissed affirming the order dated 13.08.2019 passed by the Juvenile Justice Board, Sitamarhi, in JJB Case No.847 of 2019 arising out of Mahindwara P.S. Case No.57 of 2019 registered under Sections 414 of the Indian Penal Code and 25(1-b)A, 26, 35 of the Arms Act, refusing prayer for bail of the petitioner.

6. The petitioner is lodged in the Observation Home at Muzaffarpur.

7. The Juvenile Justice Board, vide order dated 15.07.2019, declared the petitioner a juvenile in conflict with law by assessing his age as 17 years 6 months and 10 days.

8. The allegation against the petitioner is that from his house looted articles were recovered and from his possession a loaded pistol was recovered.

9. Learned counsel for the petitioner submitted that being a juvenile, the petitioner should be released into the



custody of his father. It was further submitted that the petitioner though is accused in three other cases, but in the same he has been granted bail. Learned counsel referred to a decision of the Division Bench of this Court in **Lalu Kumar @ Lal Babu @ Lallu vs. State of Bihar** reported as **2019(4) PLJR 833** in which it has been held that gravity of the offence should not be a consideration for releasing a juvenile. Learned counsel further submitted that in another case against the petitioner, in which he has been granted bail, it has been stipulated that for one year he would keep on registering his attendance before the Superintendent of Police, Sitamarhi. Learned counsel submitted that in the present case, the petitioner is in the Observation Home since 16.05.2019.

10. Learned APP submitted that the petitioner being a juvenile, it is not in his interest to be released. It was submitted that the fact that a loaded country made pistol was recovered from his person indicates that he is not in good company and further, even in the Social Investigation Report submitted to the Court below, there is a clear cut finding that if released, he would again get back into the same bad company and that would not be in his interest and further, that he is in the company of the persons, who are older to him. It was submitted



that based on the same, the Court below has also not allowed the petitioner to be released in the custody of his father.

11. The Court deems it appropriate to reproduce the relevant portion of the Social Investigation Report, as quoted in the order of the Court below, which reads as under:

“....the effect of the association of same age group is the reason of said offence. Petitioner has involved in other case i.e. Runni Saidpur P.S. Case No.158 of 2019, Runni Saidpur P.S. Case No.180 of 2019 and Runni Saidpur P.S. Case No.183 of 2019. All aforementioned cases are pending in Juvenile Justice Board, Sitamarhi, and other accused have been involved with petitioner in all such cases. Friends of petitioner are mostly elder than petitioner. Therefore the atmosphere outside is not safe for him and there is all possibility that they would come in the association of criminals and would commit another offence and since the nature of offence is serious. Hence, if bail is granted to CCL, it will expose him to moral, physical and psychological danger. Further, it would defeat the ends of justice too.”

12. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court finds substance in the submissions of the learned APP. From the materials available, it is obvious that the petitioner would be exposed to bad company if released, which would not be in his interest. The Court has to be conscious of the interest of the juvenile in considering such matters. The Court has no dispute in agreeing to the proposition of the Hon'ble Division



Bench that gravity of the offence should not be a factor to decide the matter, but, in the present case, the fact is that the Court feels that it is not in the interest of the juvenile himself to be released because of there being high chances of him getting into bad company leading to further problem for the juvenile himself, as has been dealt, in detail, in the Social Investigation Report. Accordingly, being conscious of the responsibility of the Court to take into consideration what is best for the juvenile in conflict with law, in the opinion of the Court, it would not be in his interest to be released, for the present, as he is safer in the Child Care Institution.

13. Accordingly, the application stands dismissed.

14. However, the enquiry by the Juvenile Justice Board be expedited.

(Ahsanuddin Amanullah, J)

J. Alam/-

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