

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.130 of 2019**

Arising Out of PS. Case No.-80 Year-2018 Thana- MASHRAK District- Saran

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DHANANJAY MAHTO @ DHANANJAI MAHTO @ DHANJAY KUMAR
Chandeshwar Mahto Resident of Village-Bangra Dih tola, P.S.- Mashrakh,
District-Saran at Chapra, under guardianship of Babita Devi the mother of the
petitioner and guardian

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Satya Prakash, Adv

For the Respondent/s : Mr.Shyameshwar Dayal, APP

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**CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER**

8 15-06-2020 Heard learned counsel for the petitioner as well as
learned APP through video conferencing.

2. Petitioner has challenged successive orders dated
31.10.2018 passed by Juvenile Justice Board as well as order
dated 14.12.2018 passed by 1st Additional Sessions Judge, Saran
at Chapra relating to Cr. (Juvenile) Appeal No. 85/2018,
whereby and whereunder the prayer of the petitioner to release
him on bail has been rejected relating to Mashrakh PS Case No.
80/2018 corresponding to JJB Case No. 1467/2018.

3. The allegation goes against the petitioner
identifying him to be the sole assailant of the deceased,
Chhotelal Thakur assisted by others namely, Chandrashekhar
Mahto, Ramesh Mahto, Nagendra Mahto, Arjun Mahto, Bipin



Singh during course of participating in an orchestra. It is further evident that vide order dated 03.10.2018, the age of the petitioner has been determined to be 14 years 07 months and 09 days on the alleged date of occurrence i.e., on 27.03.2018. So, from the FIR itself, there happens to be *prima facie* material relating to participation of his father, uncle during course of commission of the crime.

4. Apart from this, from the report of the learned lower court, it is evident that by having his conduct, he has acted detrimental to his interest irrespective of the age by disappearing himself thrice i.e. on 02.11.2018, 03.12.2018 and 15.01.2019 and his presence is yet to be secured. That being so, the order dated 14.12.2018 passed by the appellate court as the petitioner had surrendered on 05.01.2019 after fleeing from the Board on 03.12.2018 that on that very day, the appellant/petitioner was very much absconding and so, the learned appellate court, though, had not considered the aforesaid aspect but rightly rejected the plea. The aforesaid activity is sufficient to draw adverse inference against the appellant.

5. The another circumstance is on 05.01.2019, the appellant/petitioner had surrendered but again absconded on



15.01.2019 and till the date of report, that is to say, 01.04.2019, he was still evading his presence. Thus, being absconder, his plea is found untenable in the eye of law.

6. In ***Dhananjay Rai vs. The State of Bihar*** reported in ***2015 (4) PLJR 764***, the Division Bench has held:-

“21. Though, the remedy of appeal is a valuable right, the appellant forfeited his right the moment he escaped from the custody and, thus, flagrantly abused the process of law. Such deliberate act of the appellant amounts to defiance of criminal administration of justice and, therefore, as held by this Court, in the case of Daya Shankar Singh (supra), the appellant is not entitled for any indulgence by this Court of perusal of the records of the trial Court for the purpose of consideration of his appeal on merit.

7. That being so, the instant petition is found devoid of merit and is, accordingly, dismissed.

(Aditya Kumar Trivedi, J)

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