

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.648 of 2019

Arising Out of PS. Case No.-387 Year-2018 Thana- SIWAN MUFFASIL District- Siwan

DEEPU SHARMA @ DEEPU KUMAR, Son of Premashankar Sharma, Duly represented by his natural guardian, relation- Father)- Premashankar Sharma, aged about 49 years, Gender- Male, Son of Kapildev Sharma, Resident of Village- Bishunpur, P.S.- Siwan (Muffasil), District- Siwan.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Prashant Kumar, Advocate.

For the Respondent/s : Mr.Binay Krishna, APP.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 22-05-2020 This matter has been taken up through Video Conferencing.

Heard the parties.

This is an application under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015, challenging the order of lower appellate court dated 18.04.2019 passed in Cr. Appeal No. 19 of 2019 as well as order dated 14.03.2019 passed by the Juvenile Justice Board, Siwan in Juvenile Trial No. 61 of 2019 arising out of Siwan Muffasil P.S. Case No. 387 of 2018 registered under Sections 302 and 120B of the Indian Penal Code and Section 3(2)(Va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, whereby both the Courts below refused the prayer for bail to the petitioner.



The petitioner was declared juvenile by the Juvenile Justice Board and the order got finality.

The F.I.R. of the murder of the nephew of the informant is against unknown. During investigation, suspicion was raised against the petitioner and others to be involved in the murder of the victim.

Learned counsel for the petitioner submits that there is no direct evidence against the petitioner and both the Courts below ignored the mandate of Juvenile Justice Act which requires that bail to a juvenile is a right and the refusal is an exception. The seriousness of the offence is no consideration for refusal of bail as required under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Moreover, without any material on the record to substantiate that in the event of release, petitioner would go into association with unsocial elements and would be exposed to moral, physical and psychological danger, the Courts below have refused the prayer on this ground.

This Court had called for a report from the Probation Officer which is available on the record and the same shows that petitioner is a student having no adverse reporting against him.

Since both the Courts below have committed error of



record in coming to the conclusion that in the event of release, petitioner would go into association with some known criminals or would be exposed to moral, psychological and otherwise danger without any material to substantiate the same, hence both the orders are fit to be set aside.

Accordingly, aforesaid orders dated 18.04.2019 and 14.03.2019 are set aside.

Let the petitioner, above named, be released at once on execution of bond by either of the parents of the petitioner giving undertaking that he/she shall keep proper care and upkeep of the petitioner and shall fully cooperate with the investigation/trial against the petitioner.

(Birendra Kumar, J)

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