

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.668 of 2019

Arising Out of PS. Case No.-473 Year-2018 Thana- UDWANTNAGAR District- Bhojpur

HARSH KUMAR, aged about 17 Years (Male), Son of Akhilesh Kumar Jha,
under guardianship of his father Akhilesh Kumar Jha, Resident of Mohalla-
Anand Nagar, Police Station- Ara District Ara.

... .. Petitioner

Versus

The State Of Bihar

... .. Respondent

Appearance :

For the Petitioner/s : Mr.Brajesh Kumar Singh, Advocate
For the Respondent/s : Mr.Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 28-01-2020 Heard learned counsel for the petitioner and
learned Additional Public Prosecutor for the State.

Petitioner in the present case is a juvenile and is seeking setting aside the order dated 26.04.2019 passed in Criminal Appeal No. 15/2019 by the learned 1st Additional Sessions Judge, Bhojpur, Ara and upon setting aside of the said order the petitioner prays for grant of bail in connection with Udawant Nagar P.S. Case No. 473/2018 (J.J. Board Case No. 1459/2018) in an offence registered under Section 25(1-b)a/26/35 of the Arms Act.

Learned counsel for the petitioner submits that the ASI of the Police Station has registered a First Information Report on the basis of his self-statement in which the allegation against this petitioner is that when he was



searched one 9 m.m. pistol without cartridge was recovered from his possession. Petitioner was arrested on 10.12.2018. On 22.01.2019, his age was determined and on the undertaking given by his father he was ordered to be provisionally released for appearing in Intermediate Practical Examination, thereafter he surrendered on 02.03.2019 and made a prayer for bail but the same was rejected, perhaps because of the ill-behaviour of the learned counsel who was representing the petitioner. Later on the petitioner passed his examination as has been stated in the present petition.

Learned counsel for the petitioner has placed before me the xerox copy of the mark-sheets of the petitioner showing that he has passed the Secondary School Examination and Intermediate Annual Examination in Science and in both the Examinations he has secured First Division.

Learned counsel submits that even though father of the petitioner had given undertaking that he would keep strict vigil over the petitioner and on his undertaking the petitioner was granted provisional bail earlier. The Juvenile



Justice Board and then the learned Appellate Court both rejected the prayer for bail by wrongly stating that the parents and family members has not filed any affidavit that the petitioner, if released on bail, will be kept under protection. It is submitted that the petitioner has remained in the Observation Home for more than one year by now.

Learned A.P.P. for the State is present, though learned A.P.P. started with his usual and routine kind of opposition to oppose the prayer for bail of the petitioner but very soon he realized that it is a case of a Juvenile where the interest of the Juvenile is of paramount importance and refusal of bail should only be an exception in a case where it is found that the juvenile is not likely to get reunited with his family and for any reason there is a likelihood of his falling in bad company.

Having heard learned counsel for the petitioner and learned A.P.P. for the State and upon perusal of the records, this court is of the considered opinion that both the Juvenile Board as well as the learned 1st Additional Sessions Judge, Bhojpur at Ara has committed grave error in refusing to grant bail to the petitioner. The Juvenile Board had



granted provisional bail, the petitioner had appeared in the examination and then he had surrendered, this was done on the undertaking given by the father of the petitioner, therefore there was no reason to take a subsequent view that there was no undertaking by the father of the petitioner. Even the learned 1st Additional Sessions Judge, Bhojpur at Ara fell in error in not appreciating that what is in the interest of the Juvenile. This court, therefore, sets-aside the impugned order and directs release of the petitioner on bail furnishing bail bond of Rs. 15,000/- (Rupees Fifteen Thousand only) with two sureties of the like amount each to the satisfaction of learned Juvenile Justice Board, Bhojpur, Ara, in connection with J.J. Board Case No. 1459/2018 arising out of Udawant Nagar P.S. Case No. 473/2018, subject to condition that the father of the petitioner shall furnish an undertaking that he will keep vigil over the petitioner and would protect him from falling in bad company.

(Rajeev Ranjan Prasad, J)

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