

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3608 of 2019

In
CRIMINAL REVISION No.309 of 2019

Arising Out of PS. Case No.-6 Year-2016 Thana- D.R.I District- Muzaffarpur

VISHAL KUMAR @ VISHAL VERMA @ VISHAL, aged about 18 years 4 months (Male), Son of Late Jhargad Manoj @ Ghargad @ Jhargad Resident of Village- Sonal, P.S.- Yadnagar, P.O. and District- Sambhal (U.P.) through his mother and natural guardian namely Kranti wife of Late Jhargad Manoj @ Ghargad @ Jhargad, resident of Village- Sonal, P.S.- Yadnagar, P.O. and District- Sambhal (U.P.).

... .. Appellant/s

Versus

Union of India Through D. R. I.

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Shashank Shekhar, Advocate.
For the Respondent/s	:	Mr. Manoj Kumar Singh, CGC.

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

10 31-01-2020 Heard learned counsel for the parties.

This appeal has been preferred under Section 101(5) of the Juvenile Justice (Care and Protection of Children) Act, 2015, against the refusal of the prayer for bail of the appellant vide order dated 28.06.2018 by learned Children Court, Muzaffarpur in D.R.I. Case No. 06 of 2016-17 registered under Sections 20(B), 11(C) and 29(2) of the N.D.P.S. Act.

The appellant was cleaner of the truck from which 1478 Kilogram of ganja was recovered in hidden condition on 05.10.2016. Appellant was declared juvenile by the competent authority as date of birth of the appellant was on 01.10.1999.



However prayer for bail has been refused only on the ground of seriousness of the allegation based on quantity of recovered ganja from the truck.

Learned counsel for the appellant submits that the appellant is in remand home since 05.10.2016 and seriousness of the allegation cannot be a ground for refusal of bail to a juvenile under scheme of Juvenile Justice (Care and Protection of Children) Act, 2015.

Learned counsel for the appellant has drawn attention of the Court to the proviso to Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and submits that unless material on the record substantiates that the case is covered under the proviso to Section 12 of the Act, prayer for bail cannot be refused.

Learned court below has not considered the applicability of the proviso to Section 12 of the Act nor there is material to substantiate that in the event of release of the appellant, he is likely to go in association of the known criminals and release would affect his moral, psychological and physical care.

Since the impugned order has been passed against the mandate of beneficial legislation of the Juvenile Justice (Care



and Protection of Children) Act, 2015, same is not sustainable in law. Accordingly, impugned order is set aside and this appeal is allowed.

The appellant, above named, is directed to be released at once on execution of surety bond by either of the parents of the appellant giving undertaking that they would keep proper care and upkeep of the appellant and shall fully cooperate in the enquiry/trial before the Court below.

(Birendra Kumar, J)

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