

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1018 of 2019

Arising Out of PS. Case No.-263 Year-2018 Thana- KHAJANCHI HAT District- Purnia

SHUBHAM KUMAR KUSHWAHA @ SHUBHAM KUSHWAHA S/o Amrendra Kushwaha Resident of Shantinagar, Panchayat Bhawan Tatma Toli, P.S.- K.Hat, (Maranga), District- Purnea through his natural guardian namely Amrendra Kushwaha (father of Petitioner) age 47 years, resident of Shantinagar, Panchayat Bhawan Tatma Tola, Police Station - K.Hat (Maranga), District - Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Roshan kumar Singh S/o Sunil Kumar Singh Resident of Sahbaan Hata Janta Chowk, P.S.- K.Hat, District- Purnea.

... .. Respondent/s

Appearance :

For the Petitioner/s : Ms. Kumari Ritambhara, Advocate
For the Respondent/s : Mr. Ramchandra Singh, APP

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 01-07-2020 This matter has been taken up through Video Conferencing.

Heard learned counsel for the parties.

This criminal revision is under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015, wrongly mentioned as Section 53 of the Juvenile Justice Act. The petitioner, who was declared juvenile by the Juvenile Justice Board, is aggrieved by refusal of prayer for bail by order dated 11.04.2019 passed by the learned Children Court, Purnea, in Special Children Case No.8 of 2018, arising out of K. Hat



P.S. Case No.263 of 2018 registered under Sections 341/307/504/447/34 of the Indian Penal Code and Section 27 of the Arms Act.

The prayer was refused on the ground that the petitioner is carrying criminal antecedent and allegation against the petitioner is serious of commission of fire-arm injury at the thigh of the informant. Hence, there is chances that petitioner would go in the association of the criminals.

Learned counsel for the petitioner submits that there is no material on the record nor the learned Children Court has referred about the identity of the known criminal, the petitioner would associate himself after release. The law is well settled under the scheme of Juvenile Justice Act that bail to a juvenile is right irrespective of the nature and seriousness of the allegation unless the case is covered under the proviso to Section 12 of the Act. The proviso will apply only when there is material to substantiate that the petitioner would go in association of the particular known criminal or criminals. The Court-below has refused the prayer for bail in a casual manner floating the right of the juvenile under the Act.

Learned counsel for the State opposed the prayer for bail on the ground that the Court-below has assigned reason for



refusal of the bail.

Considering the scheme of the Juvenile Justice Act which is in favour of grant of bail to a juvenile and not sending him to jail as well as lack of material to substantiate that the case is covered by the proviso to Section 12 of the Act, the impugned order is hereby set aside.

Let the petitioner, above named, be released forthwith on execution of surety 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 in the enquiry/trial before the Children Court.

With the aforesaid observation, this application is allowed.

(Birendra Kumar, J)

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