

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.1225 of 2019**

Arising Out of PS. Case No.-248 Year-2018 Thana- SHIVSAGAR District- Rohtas

RAHUL GUPTA Son of Satish Prasad Gupta Resident of Mohalla- Adarsh Nagar, Ward No. 11, Buxar, P.S.- Buxar (Town), District- Buxar, under the natural Guardianship of his mother namely Kiran Devi, W/o Suresh Prasad Gupta, Resident of Mohalla- Adarsh Nagar, Ward No. 11, Buxar, P.S.- Buxar (Town), District- Buxar.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner/s : Mr. Vikram Deo Singh, Advocate

For the Respondent/s : Mr. Satyendra Narayan Singh, APP

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

6 10-07-2020 Heard Mr. Vikram Deo Singh, learned counsel for the petitioner and Mr. Satyendra Narain Singh, learned counsel for the State.

Petitioner, in the present case, is a juvenile who is seeking setting aside of the order dated 28.06.2019 passed by learned 1st Additional District and Sessions Judge, Sasaram, Rohtas in G.R. No. 02/2019 corresponding to J.J.B. No. 190/2018 arising out of Sheosagar P.S. Case No. 248/2018 registered under Sections 395, 397 and 412 of the Indian Penal Code and Sections 25(1-b)a, 26(2), 27 and 35 of the Arms Act.

Learned counsel for the petitioner submits that on the alleged date of occurrence petitioner has been adjudged at the age of 16 years 6 months approximately. It is his submission



that the petitioner being a juvenile considering the aim and object of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the 'Act of 2015') the petitioner deserves to be released on bail on such terms and conditions as this court may deem fit and proper in the facts and circumstances of the case.

On the other hand, learned A.P.P. for the State submits that the petitioner having been found over 16 years of age, in terms of the scheme of Section 15 r/w Section 18(3) of the Act of 2015, a preliminary assessment of the mental status of the petitioner was undertaken in which the Juvenile Justice Board has found that he is fit to be tried as an adult and accordingly the records have been sent to the learned Children Court.

Learned A.P.P. has having gone through the case diary and the social investigation report submitted before this court that the social investigation report rather shows the date of birth of the petitioner as 15.10.1998 meaning thereby that he was already an adult on the alleged date of occurrence. It is his submission that even if the petitioner is said to be a juvenile, considering the kind of criminal antecedent stated in paragraph '3' of the application itself, this court may take a view that the petitioner has fallen in bad company and is involving himself in



crime one after another. As on date there are already five cases on his head and all such cases are serious in nature, thus it is submitted that considering the proviso to Section 12 of the Act of 2015, it would not be either in the interest of the petitioner or in the ends of justice to release petitioner on bail at this stage.

Having regard to the facts and circumstances of the case and the submissions of the parties and upon noticing the materials available on the record, this court finds that in course of investigation it has come that the petitioner has got indulged in commission of crime since the year 2017, he has allegedly been involved in the offences under the Arms Act and under Sections 392, 394 and 395 of the I.P.C. on earlier occasion, details of cases are there in paragraph '3'.

While it is true that the scheme of Section 12 of the Act of 2015 provides for grant of bail as a matter of right to the juvenile but at the same time exception has been carved out under proviso to Section 12 and there are judicial pronouncements on the subject showing that in the cases where either the Board or Court has found that it would not be in the interest of juvenile to release him from the observation home or place of safety as the case may be, and it is in the interest of justice that he should be allowed to remain in the observation



home/place of safety in order to reform him, the court may refuse to release him on bail. This Court finds that this case is one of those cases in which the interest of justice requires that the petitioner should not be granted privilege of release on bail at this stage because he has got allegedly involved in crime one after another and now he is being tried as an adult by the Children Court. There is every possibility that if released on bail at this stage he will be either exposed to the veteran criminals and get involved again in the same crime or may get involved in the criminal activities through any other hand. This Court is, thus, not inclined to release the petitioner on bail at this stage.

Let the Children Court proceed with the trial and conclude the same at the earliest opportunity.

At this stage, Mr. Vikram Deo Singh, learned counsel for the petitioner has drawn the attention of this court that the petitioner is presently lying in jail. This court is unable to understand as to how the petitioner who has been declared 16 years 6 months old at the time of alleged occurrence on 18.07.2018 and has been declared juvenile by the Juvenile Justice Board is in jail in course of trial even though he has not attained the age of 21 years as per the order enclosed with the present application.



This Court, therefore, while disposing of this application directs that a copy of this order be sent to the concerned Juvenile Justice Committee of the High Court to take notice of this fact and take up the matter at it's own level.

This Application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

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Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

