

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1369 of 2019

Arising Out of PS. Case No.-67 Year-2017 Thana- DHANGAI District- Bhojpur

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Rajnish Kumar @ Rajanish Kumar Son of Ramji Yadav @ Ramjee Yadav @
Ramjee Singh Under the guardianship of Ramji Yadav @ ramjee yadav @
Ramjee Singh Resident of Village - Digha, P.S- Dhangai, Distt.- Bhojpur.
... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Harsh Singh
For the Respondent/s : Mr. Usha Kumari 1, Special P.P.

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 14-01-2020 Heard the counsel for the parties.

This criminal revision has been preferred under Section 102 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Petitioner is one of the accused in Dhangai P.S.Case No.67 of 2017 registered under Sections 302/34 of the Indian Penal Code and under Sections 3(2)(r)(a)/3(i)(r)(s) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

According to FIR, four persons allegedly assaulted the deceased by fists and slaps, which resulted in death. Informant is not an eye witness of the occurrence.

It has been informed that there is no eye witness of the occurrence. Petitioner was declared juvenile by the Juvenile Justice Board, Ara in JJB Case No.1532 of 2019. However, prayer for bail was refused on 15.06.2019. The Appellate Court also did not interfere with the order of refusal of bail by order



dated 17.08.2019 passed in Cr.Appeal No.28 of 2019. Both orders are under challenge in this application.

Learned counsel for the petitioner submits that both the courts below have committed error of law in not appreciating the mandate of the Juvenile Justice Act, whereunder bail to juvenile is a rule and refusal is exception irrespective of the seriousness of allegation levelled. Further submission is that finding of the Juvenile Justice Board, Ara is that there is chance that in the event of release, the petitioner may go in association of bad elements and be exposed to moral or psychological danger, is based on no material rather conjectures and surmises. Identical reason has been expressed by the learned Appellate Court while refusing to interfere with the order of Juvenile Justice Board, Ara. Further contention is that two of the co-accused persons having identical allegation were allowed bail by Juvenile Justice Board itself. Petitioner is in custody since 14.10.2017.

Since there is no eye witness of the occurrence, only seriousness of the allegation of commission of murder by assault committed by fists and slaps cannot make out a serious allegation against the petitioner. Moreover, the findings of the courts below that in the event of release, the petitioner would go



into association of criminals is based on no material nor there was any material to substantiate that moral, psychological or otherwise danger is there, if the petitioner is released from remand home.

Petitioner has got no criminal antecedent.

Aforesaid materials were not considered by the courts below and error of record has been committed to come to some conclusion of refusal of bail. In my view, orders of the court below are not sustainable and, hence, the same stands set aside.

Considering the fact that both the courts have committed error of law inconsistent with the material on the record and mandate of the Juvenile Justice Act, the orders of the court below are hereby set aside and this application is allowed. Let the above named petitioner be immediately released on bail on furnishing surety, bond by either of the parents that they would maintain proper upkeep of the petitioner to the satisfaction of learned Juvenile Justice Board, Bhojpur at Ara in Dhangai P.S. Case No.67 of 2017 (SC/ST Case No.590 of 2017) corresponding to JJB Case No.1532 of 2019.

B.Kr./-

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(Birendra Kumar, J)

