

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1455 of 2019

Arising Out of PS. Case No.-33 Year-2019 Thana- MURLIGANJ District- Madhepura
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AKASH KUMAR @ AKASH KUMAR AMAR Son of Maheshwar Yadav
Resident of Village- Dumariya, P.S.- Murliganj, District- Madhepura,
under the guardianship of his father Maheshwar Yadav Son of Late Bilo
Yadav, resident of Village- Dumariya, P.S.- Murliganj, District-
Madhepura.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Petitioner/s : Mr.Viveka Nand Singh
For the Respondent/s : Mr.Lalan Kumar

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL ORDER

4 29-06-2020 Heard Mr. Vivekanand Singh, learned counsel
for the petitioner and Mr. Lalan Kumar, learned APP for
the State.

The petitioner was declared to be a juvenile but
his age was assessed to be 17 years at the time of
occurrence. He has been made accused in a case under
Section 302 of the Indian Penal Code, which would come
under the category of heinous cases as defined under
Section 2(33) of Juvenile Justice Care and Protection of
Children, Act 2011.



In such cases, it was mandatory for Juvenile Justice Board to have made a preliminary assessment under Section 15 of the Act regarding the mental and physical capacity of the Juvenile to commit such offence as also his ability to understand the consequences of the offence and the circumstances under which he allegedly committed the offence.

It appears from the order of Juvenile Justice Board that without any assessment under Section 15 of the Act, the application for release of the Juvenile from remand home has been rejected.

The Appellate Court / Children Court has also not applied its mind to the aforesaid provisions of the Act and has completely gone astray in only deciding that it would not be beneficial for the child to be released from the remand home.

The requirement under Section 19 of the Act has also not been complied with.

Since the assessment of a Juvenile above the age of 16 years in heinous cases is mandatory, this Court



deems it appropriate to set aside the order dated 10.06.2019 passed by the Juvenile Justice Board as also the order dated 05.09.2019 passed by the Appellate Court and remand the case to the Juvenile Justice Board to assess the Juvenile in terms of Section 15 of the Act and pass an order accordingly.

This shall be done within a period of 30 days from the date of receipt / production of a copy of this order. This short time limit has been provided for the reason that the juvenile has already remained in remand home for a long time and such assessment should have been made within a period of three months of the first production of the juvenile before the Board.

If the petitioner does not get satisfied with the order of the Board, he would have the entitlement to approach the Appellate Court for the needful.

It need not be reminded that the Juvenile Justice Board or the Children Court are under an obligation to pass such order which serves the interest of the child in the best possible manner.



The revision petition stands disposed of with
aforesaid direction.

(Ashutosh Kumar, J)

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