

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.1443 of 2019

Arising Out of PS. Case No.-35 Year-2019 Thana- GAMAHARIYA District- Madhepura

AKLAVYA KUMAR @ BHIKHARI RISHIDEV Son of Shibu Rishidev
Resident of Village- Thengha, P.S.- Sour Bazar, District- Saharsa (Under
guardian of his mother namely Kedula Devi , wife of Shibhu Rishidev@ Shiv
Rishidev, resident of village-Thengha Jungal, Ward no-2, P.S.-Sour
Bazar, District- Saharsa Petitioner

Versus

THE STATE OF BIHAR Respondent

Appearance :

For the Petitioner/s : Mr.Raja Surendra Mohan, Advocate
For the Respondent/s : Mr.Ajay Kumar Jha, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 06-02-2020 Heard learned counsel for the petitioner and learned
APP for the State.

This revision application has been filed against the order dated 02.09.2019 passed by learned Additional District & Sessions Judge Ist -cum- Juvenile Court, Madhepura in connection with Criminal Appeal No. 36 of 2019 whereby and whereunder learned appellate court dismissed the criminal appeal and affirmed the order dated 10.07.2019 passed by the learned Juvenile Justice Board, Madhepura in connection with Gamharia P.S. Case No. 35 of 2019 whereby and whereunder the prayer for bail of the petitioner has been rejected under the provision of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

The petitioner in the present case has been declared



juvenile as he was 17 years old on the date of the alleged occurrence. The allegation against him is that while attending a Mundan ceremony at the place of his relatives he along with his father had participated in a quarrel with the deceased who also happened to be a close relative and in course of said quarrel this petitioner had given a blow on the head of the deceased from behind by a bamboo which proved fatal and ultimately the victim died.

Learned counsel for the petitioner submits that apart from the fact that the petitioner is a juvenile, it may be seen from the first information report that the alleged occurrence has taken place in course of a quarrel between the parties who were closely related and had assembled to attend the Mundan ceremony at the place of occurrence, there is no repetition of blow and further no material has come to show that the petitioner had any intention to kill the deceased, according to him, every thing seems to have happened in the spur of moment and in the fit of anger.

It is further submitted that the social investigation report of the petitioner which is available on the record as Annexure '5' would show that the petitioner comes from a Mahadalit family and his family is maintaining itself struggling



for the livelihood and this petitioner has been married and has got his wife, mother and father and all of them are emotionally attached to the petitioner, the petitioner earns his livelihood for the family and it has come in the investigation report that to earn and support the family he had left his school as student at class five. The social investigation report has been submitted showing that there is no criminal antecedent of the petitioner and the Probation officer has recommended that the case of the petitioner to be considered keeping in view the aforesaid aspects particularly that he has got responsibility of his family.

It is also submitted that the Juvenile Justice Board has not tested the mental condition of the petitioner and there is no finding that the petitioner being aged about 17 years was aware of the consequences of the said assault and there is no observation of the Juvenile Justice Board that the petitioner should be tried as an adult.

Learned APP for the State has though opposed the prayer for bail of the petitioner but accepts that in the social investigation report there are recommendations of the Probation Officer to take a sympathetic view of the matter considering the emotional relationship and the burden upon the petitioner to maintain his family.



Having heard learned counsel for the petitioner and the State as also upon perusal of the records, this Court finds that the altercation seems to have taken place in a fit of anger and the Juvenile Justice Board has not tested the mental condition and has not recommended him to be tried as an adult. Further this Court finds from the social investigation report that the petitioner has no criminal antecedent, his wife and mother are emotionally attached to him and this petitioner also earns his livelihood for the family.

In these circumstances, this Court deems it just and proper to direct release of the petitioner on bail so as to reunite with his family at this stage. Let the petitioner above named be released on bail on furnishing bail bond of Rs. 15,000/- (fifteen thousand) with two sureties of the like amount each, one of which will be his mother who has undertaken to ensure that she would keep vigil on the petitioner and will not allow him to fall in any bad company, to the satisfaction of learned Juvenile Justice Board, Madhepura in connection with Gamharia P.S. Case No. 35 of 2019.

(Rajeev Ranjan Prasad, J)

avin/-

U		T	
---	--	---	--

