

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL REVISION No.1541 of 2019**

Arising Out of PS. Case No.-78 Year-2019 Thana- JAHANABAD District- Jehanabad

Saurav Kumar, Represented through his father Kavindra Singh @ Kavindra Kumar, Resident of Village - Chilori, P.S.- Makhdumpur, O.P. Tehta, District - Jehanabad.

... .. Petitioner

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Petitioner/s	:	Mr.Ramakant Sharma, Sr. Advocate Mr. Rakesh Kumar Sharma, Advocate Mr. Lakshmi Kant Sharma, Advocate
For the Respondent/s	:	Mr.Madhura Nand Jha, Advocate
For the Informant	:	Mr. Prithvi Pal, Advocate Mr. Dharendra Kumar Sinha, Advocate

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

5 03-07-2020 Heard Mr. Ramakant Sharma, learned Senior Counsel assisted by Mr. Lakshmi Kant Sharma and Mr. Rakesh Kumar Sharma, learned counsel for the petitioner, Mr. Madhura Nand Jha, learned A.P.P. for the State and Mr. Prithvi Pal assisted by Mr. Dharendra Kumar Sinha, learned counsel for the informant.

Petitioner in the present case is a juvenile who is seeking release from observation home in Jehanabad P.S. Case No. 78 of 2019 registered under Sections 302 and 201/34 of the Indian Penal Code giving rise to Jehanabad General Trial No. 175 of 2019 (Enquiry No. 314(J) of 2019. His prayer for release has been rejected by the learned Juvenile Justice Board,



Jehanabad and the appeal preferred against the said order vide Criminal (Juvenile) Appeal No. 55 of 2019/24 of 2019 has also been rejected by the 1st Additional District and Sessions Judge, Jehanabad.

Learned Senior Counsel for the petitioner submits that the petitioner is not named in the First Information Report. The son of the informant is said to have been murdered in the night of 29th January, 2019, his dead body was recovered near an agriculture farm situated at Kako Road on 30.01.2019 at 8.00 A.M. The F.I.R. has been registered in this regard on the subsequent day on 31st January, 2019.

It is submitted that later on in the confessional statement of the co-accused Kundan Kumar the name of this petitioner has come as one of the participants of crime and that he had along with his friends allegedly murdered the son of the informant.

On the alleged date of occurrence, the age of the petitioner has been assessed at 15 and half years, his date of birth being 15.06.2003. It is submitted that the petitioner has no criminal antecedent and considering the scheme of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the 'Act of 2015') particularly Section 12 thereof and also the Social Investigation Report submitted by the Legal-cum-Probation Officer after conducting inquiry, the petitioner



may be released from the Observation Home and be allowed to reunite his family where not only his emotional issues may be taken care of but would also be submitting himself to the mainstream of the society by continuing with the education etc.

Learned Senior Counsel has heavily relied upon the social investigation report submitted by the Probation Officer wherein the Probation Officer has noted that the petitioner had all normal behaviours and the neighbours of the petitioner had informed the Probation officer that the behaviour of the juvenile has been good. The main reason for the petitioner getting involved in this case is his friendship with the co-accused.

Learned APP for the State as also learned counsel representing the informant have opposed the release of the petitioner. Learned counsel for the informant has read out the proviso to Section 12 of the Act of 2015 and submitted that the case of the petitioner comes under the exception carved out under the said proviso. It is pointed out that the father of the petitioner obtained a forged and fabricated medical certificate of PMCH to show that the petitioner was under treatment in PMCH on the relevant date. For the said reason the father of the petitioner is being prosecuted and the case in this regard is pending trial. Learned counsel submits that considering the fact



that in course of investigation it has been found that the petitioner has actively participated in the alleged occurrence and had planned the same as also in his jeans pant blood stain have been found, the release of the petitioner would defeat the ends of justice. Regarding the declaration of juvenility the informant has filed an appeal against the order of the Juvenile Justice Board as it is his case that there is only three months difference in the date of birth of the petitioner and his sister.

Having regard to the facts and circumstances of the case, wherein this Court has noticed on perusal of the case diary that it is this petitioner who had allegedly planned the murder and then with two of his friends had participated in the alleged occurrence in which the son of the informant was killed, the fact that his father fabricated a document of PMCH to show that the petitioner was in hospital on the alleged date of occurrence and the said document has been found to be forged and fabricated as also that blood stained jeans pant is said to have been found, the age of the juvenility as declared by the Juvenile Justice Board is under challenge in appeal by the informant, at this stage, the Court is inclined to agree with the submission of learned counsel for the informant that for the ends of justice the release of the petitioner may not be justified.



This Court is conscious of the fact that the Probation Officer has reported that the conduct of the petitioner is normal and he should be given one chance after counselling keeping him under protection of his parents but the Court is also conscious and having found that the report talks of parental negligence besides the bad association of boy leading to his participation in the present occurrence and the father getting involved in fabrication of documents, the Court is of the view that the father is perhaps not able to take the best care of his son and at this stage when he himself is facing a trial for the said case, putting the boy in his hand may expose the boy to some moral and mental anxieties arising from the circumstances which may prevail in the family during this period.

The Court is of the view that the ends of justice rather requires that in terms of Section 18 of the Act of 2015 the Juvenile Justice Board should consider passing an order at appropriate stage preferably after six months from today in terms of Section 18(1)(e) and (f) of the Act of 2015. For the present let the Juvenile Justice Board consider passing an order in terms of Section 18(1) (b) and (c) so that his conduct may be taken into consideration after six months for his release under Section 18(1) (e) and (f) of the Act of 2015.



This application stands disposed of 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'.

