

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.166 of 2021**

Arising Out of PS. Case No.-17 Year-2018 Thana- MUFFASIL District- West Champaran

XX.

... .. Petitioner/s

Versus

1. The State of Bihar
2. SALIM ANSARI S/O Late Sobarak Miya Resident of Naya Tola, Laptahi, P.S. Manuapool, District - West Champaran.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Bimlesh Kumar Pandey, Advocate

For the Respondent/s : Mr. Md. Nazir Ansari, APP

**CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER**

2 23-03-2021 Heard learned counsel for the petitioner and learned APP for the State through video conferencing.

Though the petitioner has given full description in the application, it would be inappropriate to disclose his identity in view of section 74 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Thus, he is being referred to in the cause title as XX.

This application has been preferred under the Juvenile Justice (Care & Protection of Children) Act, 2015 against the order dated 9.10.2020 passed in Cr. Appeal no. 16 of 2020 by the learned Additional Sessions Judge VIII, West Champaran at Bettiah whereby the appeal was dismissed affirming the order dated 20.3.2020 passed by the Juvenile Justice Board, West Champaran, Bettiah in J.J.B. Case no. 513 of 2020 (arising out of Bettiah (Manuapool) P.S. Case no. 17 of 2018 registered under sections 307, 376, 147, 148, 149, 323, 324, 342, 447,



504, 506 and 511 of the Indian Penal Code and section 8 of the POCSO Act to which section 302 was added subsequently.

As per allegation in the FIR, the accused persons including the petitioner herein came variously armed. It is further stated that Jakir Ansari gave a blow with an iron rod on the head of the uncle of the informant while others also assaulted.

It is submitted by learned counsel for the petitioner that by order dated 10.1.2020 (Annexure 4) the petitioner was declared to be a juvenile on the date of occurrence. It is further submitted that from perusal of the order dated 11.1.2019 (Annexure 2) passed in Cr. Misc. no. 74338 of 2018, granting bail to co-accused Sarfullah Ansari, this Court has taken note of the fact that the doctor found only one injury on the head of the deceased and the same was directly attributable to Jakir Ansari. It is submitted that the case of the petitioner stands on a better footing than co-accused Sarfullah Ansari for the reason that besides being declared a juvenile, final form (Annexure 3) was submitted not sending up the petitioner for trial, however, the learned Court below differing with the final report has taken cognizance in the case. The petitioner is in custody since 25.7.2019.



The application is opposed by learned APP for the State.

Having heard learned counsel for the parties and taking into consideration the submissions made on behalf of the petitioner, the petitioner having been found to be a juvenile in conflict with law, final form having been submitted against him and the period in custody, the Court is inclined to allow the instant application. The application is allowed and the order dated 9.10.2020 passed in Cr. Appeal no. 16 of 2020 by the learned Additional Sessions Judge VIII, West Champaran at Bettiah and the order dated 20.3.2020 passed in J.J.B. Case no. 513 of 2020 by the Juvenile Justice Board, West Champaran, Bettiah are hereby set aside.

It is directed that on the undertaking given by his father, the petitioner shall be enlarged on bail in connection with Bettiah (Manuapool) P.S. Case no. 17 of 2018 on furnishing bail bond of Rs. 5,000/- (Rupees five thousand) with two sureties of the like amount each to the satisfaction of the learned Juvenile Justice Board, West Champaran.

(Partha Sarthy, J)

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