

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL APPEAL (SJ) No.1306 of 2021

Arising Out of PS. Case No.-602 Year-2019 Thana- BUXAR District- Buxar

Sangram Yadav, aged about 17 years, male, S/o Late Khuti Yadav, R/o village- Lalganj, P.S.- Buxar (Mufassil), District- Buxar through its guardianship of brother-in-law (jija), namely, Sanjay Singh.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Ramchandra Singh, Adv.
For the Informant : Mr. Digvijay Kumar Ojha, Adv.
For the State : Mr. Binod Bihari Singh, Spl. P.P.

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

4 27-07-2021 Heard Mr. Ramchandra Singh, the learned

Advocate for the appellant and Mr. Digvijay Kumar Ojha, the

learned counsel for the informant. The State is represented

by the learned Special Public Prosecutor.

The juvenile has challenged the order dated
20.05.2020 passed by the Children Court, viz., learned 1st
Addl. Sessions Judge-Cum-Special Judge, Buxar in



connection with Buxar (Town) P.S. Case No. 602 of 2019 (Child Case No. 4 of 2020), whereby the order passed by the Juvenile Justice Board, Buxar, refusing to release the juvenile from the observation home, has been upheld and the prayer made for his release has been rejected.

From the records, it appears that the juvenile/petitioner has been assessed to be above the age of sixteen years and below eighteen years of age on the date of the occurrence.

The brother of the informant was killed by gunshot. The juvenile/petitioner has not been named in the F.I.R., but his implication in this case was only on the basis of confession of a co-accused.

The Juvenile Justice Board refused to release the juvenile from the observation home on the ground that he was in a bad company and was afflicted with a sense of revenge for his father's murder in the past. The Juvenile Justice Board also made an assessment of the cognitive faculties of the juvenile and his dispensation towards committing crime and found that the case of the juvenile is



fit enough to be dealt with by the Children Court.

Against the aforesaid order of the Juvenile Justice Board, Buxar, the juvenile/petitioner preferred an appeal before the Children Court which too rejected the prayer of release.

A perusal of the order passed by the Appellate Court discloses that the name of the juvenile/petitioner surfaced in this case only on the confession of an accused person. The other thing which get reflected from the order is that it has been passed merely on the considerations of the seriousness of the offence and not on considerations which ought to have weighed with the Appellate court. The Court below has gone on to observe that the act of killing the brother of the informant demonstrated a kind of dare-devility and, therefore, the Court felt disinclined to release the juvenile from the observation home.

Mr. Ramchandra Singh, the learned Advocate for the juvenile/appellant has argued that no effort was made by the Appellate Court to assess whether it would have been beneficial for the child to have been released from the



observation home. What were the materials before the Court to come to a conclusion that the release of the juvenile would lead to recidivism in future is not known. Without taking the social investigation report, the order refusing to release the juvenile from the observation home has been passed. This, it has been argued, cannot be the consideration of the Appellate Court dealing with the juvenile laws.

There is force in the submissions of the learned counsel for the juvenile/petitioner/appellant. The appellate order does not reflect that the Appellate Court has applied himself to the obligations which he has under the law.

As such, the order dated 20.05.2020 is set-aside and the matter is remanded to the learned Children Court, viz., learned 1st Addl. Sessions Judge-Cum-Special Judge, Buxar to right out a fresh order in accordance with law, after taking into account all such grounds which are required to be considered while deciding such an appeal.

The order ought to be passed within thirty days of the receipt/production of a copy of this order.



It would be open for the next friend and guardian of the juvenile to approach the Children Court along with the copy of the order and intimate the Court about such order having been passed.

In case, the juvenile/petitioner is aggrieved by the fresh order passed by the Appellate Court, he may take recourse to his legal remedies as provided under the Juvenile Justice (Care and Protection of Children) Act, 2015.

With the aforesaid observation/direction, the appeal stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

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