

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.442 of 2021**

Arising Out of PS. Case No.-321 Year-2016 Thana- TURKAULIYA District- East
Champaran

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Kailash Sahani Son Of Dinanath Sahani Resident Of Village - Raghunathpur,
P.S. - Turkauliya, District - East Champaran.

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

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Appearance :

For the Petitioner/s : Mr. Dhurendra Kumar, Advocate
For the Respondent/s : Mr. Akhileshwar Dayal, APP

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

2 20-06-2022 Learned counsel for the petitioner undertakes to
remove all the defects as pointed out by the Stamp Reporter
within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner and learned
APP for the State.

This application has been filed for setting aside the
order dated 05.04.2018 passed by learned Sessions Judge, East
Champaran, Motihari in Cr. Appeal No. 56 of 2017, Trial No.
1021 of 2017 arising out of Turkaulia (Raghunathpur) P.S. Case
No. 321 of 2016 whereby and whereunder the order dated
31.05.2017 declaring the petitioner a juvenile passed by learned
Juvenile Justice Board, Motihari has been set aside.

Learned counsel for the petitioner submits that the
learned Appellate Court is not justified in setting aside the order



of the Juvenile Justice Board. In course of argument, however, learned counsel for the petitioner informs this Court that pursuant to the impugned judgment/order of the learned Appellate Court a medical board was constituted and thereafter on the basis of the report of the medical board, the age determination has already taken place by a separate order passed by the Juvenile Justice Board.

Learned counsel further submits that the said order by which the petitioner has been declared juvenile has been refused to be declared a juvenile is an appealable order under Section 101(1) of the Juvenile Justice (Care and Protection of Children) Act, 2015. Learned counsel is, however, not aware as to whether any appeal has been filed against the order of the Board by which the age determination has taken place.

Learned APP for the State while opposing the present application submits that if the age determination has already taken place pursuant to the impugned order, the petitioner could have been well advised to avail all such pleas which are available to him in the present case while challenging the order determining the age of the petitioner by the Juvenile Justice Board.

At this stage, learned counsel for the petitioner



submits that he would withdraw this application with liberty to raise all such pleas which are available to the petitioner in a properly constituted appeal which may be preferred by the petitioner against the final order of the Juvenile Justice Board determining the age of the petitioner pursuant to the impugned order.

This Court allows the petitioner to withdraw this application with liberty to raise all such issues which are available to him in the appeal, if any filed or which may be filed against the final order determining the age of the petitioner pursuant to the impugned order.

This application stands disposed of with the aforesaid observation.

(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'.

