

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.551 of 2023

Arising Out of PS. Case No.-45 Year-2022 Thana- BAIKUNTHPUR District- Gopalganj

XXX, Son of Ram Babu Rai, Resident of Village Madhopur Hajari P.S
Sahebganj, District Muzaffarpur under Guardianship of mother and natural
guardian namely Laxmi Devi

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner : Mr. Upendra Kumar Chaubey, Advocate
For the State : Mr. Akhileshwar Dayal, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

5 08-12-2023 Heard learned counsel for the petitioner and Mr.
Akhileshwar Dayal, learned APP for the State.

2. A supplementary affidavit has been filed on behalf
of the petitioner in compliance of the order dated 24.11.2023.

3. The petitioner in this case is seeking setting aside of
the order dated 12.06.2023 passed by learned 1st Additional
Sessions Judge-cum-Special Judge, Children Court, Gopalganj in
Cr. Appeal No. 11 of 2023 whereby and whereunder the learned
Additional Sessions Judge has refused to interfere with the order
dated 03.02.2023 passed by the Juvenile Justice Board,
Gopalganj (hereinafter referred to as the 'Board') in Juvenile
Enquiry Case No. 19 of 2023 arising out of Baikunthpur P.S.
Case No. 45 of 2022 under Sections 394 and 302 of the Indian
Penal Code. The petitioner has got fourteen criminal antecedents.



4. On the last date of hearing, learned counsel for the petitioner informed this Court that the petitioner has been adjudged juvenile aged about fourteen years vide Annexure '2' to the present application.

5. It is submitted that the petitioner has been falsely implicated in this case. In most of the cases, he has been implicated on the basis of confessional statement of the co-accused.

6. In today's affidavit, learned counsel for the petitioner has explained the criminal history of the petitioner and his submission is that the petitioner was implicated right from beginning when he was aged about 10-11 years on account of enmity with the elected *Mukhiya* to whom the family of the petitioner has strongly opposed.

7. On query made by this Court, learned counsel for the petitioner has informed that the petitioner has left his studies and presently he is not admitted in any school. His mother claims that if released on bail, she would take care of the petitioner and would not allow him to fall in bad company.

8. Learned counsel for the petitioner further submits that the petitioner is in observation home since 17.04.2022 and the co-accused have been granted bail.

9. On the other hand, Mr. Akhileshwar Dayal, learned



APP for the State submits that in fact the manner in which age determination has been done by the Board vide Annexure '2' to the present application, the same itself is questionable and this Court may even initiate a *suo moto* proceeding to examine the correctness of the order determining the age of the petitioner. It is submitted that it is difficult to understand that at the age of 10-11 years, police will falsely implicate a person and then within five years, he would get involved in another thirteen cases.

10. Learned APP submits that it is evident from the criminal history of the petitioner that he has become a habitual offender because of his bad company.

11. It is further submitted that in case of his release on bail at this stage, there is every possibility that he would again fall in the same company and will be indulging in another crime. The submission of the mother that she will take care of the petitioner is only for purpose of getting bail as it is evident that there is no control of guardian over the petitioner.

12. Having regard to the facts and circumstances of the case, this being a case of a juvenile who claims himself aged about fourteen years on the alleged date of occurrence, in the opinion of this Court, his prayer for bail is to be considered keeping in view the principles laid down under Section 12 of the Juvenile Justice Act, 2015 (hereinafter referred to as the 'Act of



2015’).

13. In the present case, this Court finds that for last five years, the petitioner has been involved in fifteen cases including the present case. He was on bail and during continuance on bail, his guardians are unable to control him and because of his falling in bad company, his name is transpiring in several cases.

14. In such circumstance, it appears to this Court that the interest of the petitioner lies in keeping him in the observation home itself for the present and appropriate steps be taken in course of inquiry for his rehabilitation and efforts be made to connect him with the mainstream of the society.

15. So far as the age determination of the petitioner vide order dated 03.02.2023 as contained in Annexure ‘2’ to the present application is concerned, it appears that the order has been passed on the basis of an another order of the Board passed in J.E. No. 248 of 2022. The said order has been passed on the basis of an admission register but there is no clarity about the said admission register or the procedure adopted by the Board in the said case.

16. Considering the fact that the petitioner is claiming himself only about fourteen years of age on the alleged date of occurrence in the present case and if the same is believed then he



was hardly aged about ten years on the date of occurrence in the first case in which he was involved, this Court is of the considered opinion that the records of the Juvenile Board in which the age determination of the petitioner has been done be thoroughly examined by the learned Sessions Judge, Gopalganj after calling the records and after thorough examination of the records, a comprehensive report shall be sent to this Court within a period of six weeks from the date of receipt of a copy of this order whereupon this Court will take a view as to whether in exercise of its power under Section 102 of the Act of 2015, this Court would on its own motion register a revision against the order determining the age of the petitioner.

17. The prayer for setting aside the impugned order is rejected, however, the matter will be listed under heading ‘To Be Mentioned’ with the report of the learned Sessions Judge, Gopalganj after six weeks i.e. on 23.01.2024.

(Rajeev Ranjan Prasad, J)

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