

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74733 of 2023

Arising Out of PS. Case No.-209 Year-2023 Thana- BRAHMPUR District- Buxar

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Ankit Singh @ Ankit Kumar Son Of Late Ranjeet Singh R/O Village-
Twining Ganj, P.S.- Krishna Brahm, Dist.- Buxar

... .. Petitioner/S

Versus

The State Of Bihar Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Pramod Kumar, Adv.
For the Opposite Party/s : Mr. Ramchandra Sahni, APP

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CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

Date : 29-11-2023

Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. After some argument, counsel for the petitioner seeks permission to withdraw the present criminal miscellaneous application to avail remedy by way of filing appeal before this Hon'ble Court under Section 101(5) of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as "the Act of 2015").

3. Learned counsel for the State submits that permission may be granted and he has no objection for the same, but he has placed one judgment of Jharkhand High Court in case of Sahabuddin Ansari @ Nannu Ansari @ Md. Sahabuddin Ansari Vs. The State of Jharkhand & Anr. Reported



in 2018 (1) JBCJ 434 in which Hon'ble Jharkhand High Court has pleased to hold that criminal appeal is not maintainable and the petitioners have to file criminal miscellaneous application as Section 101 of the Act of 2015 only provides about the order confined to provisions of Section 15 of the Act under which the Board has been empowered to hold preliminary assessment regarding mental and physical capacity of the child alleged to have committed an offence, but in case, the finding has not been challenged and prayer has been made for bail only, then in that case, bail application should be applicable under regular provisions of law.

4. After going through the provisions, it appears to this Court that Hon'ble Jharkhand High Court has taken into consideration under Section 101(2) of the Act of 2015 and reached on the conclusion as mentioned in the above said judgment, but Section 101(5) of the Act of 2015 is very much clear which is as follows:-

Section 101(5):- Any person aggrieved by an order of the Children's Court may file an appeal before the High Court in accordance with the procedure specified in the Code of Criminal Procedure, 1973 (2 of 1974).



5. In the view of this Court that the interpretation of any statute shall be made upon considering all the provisions laid down in the said law. Here in the present case, the interpretation about the applicability may not be decided only upon consideration of Section 102(2) of the Act of 2015 rather ought to decide upon consideration of provisions laid down under Section 101(1) to 101(7) of the Act of 2015.

6. There is expressed provisions in Section 101(5) of the Act of 2015 that any person aggrieved by an order of children court may file an appeal before the High Court in accordance with the procedure specified in the Code of Criminal Procedure, 1973 (2 of 1974) and hence, this Court is of the firm view that in the present case, an appeal shall lie as mentioned in Section 101(5) of the Act of 2015.

7. In this view of the matter, this criminal miscellaneous application is permitted to be withdrawn to avail remedy under appeal.

(Dr. Anshuman, J.)

Prakashmani/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	
Transmission Date	

