

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.34 of 2024

Arising Out of PS. Case No.-20 Year-2018 Thana- RAJEPUR District- East Champaran

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DHARMENDRA MAHTO @ DHARMENDRA KUMAR @
DHARMENDRA KUMAR MAHTO Son of Gobardhan Mahto R/o vill -
Sirha, P.S. - Pakridayal, Distt. - East Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Manoj Kumar, Adv.
For the Respondent/s : Mr. Murli Dhar, APP

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CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI

ORAL JUDGMENT

Date : 12-03-2024

Heard learned Advocate for the petitioner as well as
learned APP for the State.

2. The instant criminal revision is directed assailing an
order dated 9th November, 2023, passed by the learned Additional
Sessions Judge-I-cum-Special Judge Children's Court, East
Champaran, Motihari, in Children Trial No. 01 of 2019, refusing
the petitioner/child in conflict with law to grant bail and release
him under the custody of the parents of the petitioner.

3. The fact of the case in brief is that on 5th February,
2018 at about 10:45 P.M., the Police Officer attached to Rajepur
Police Station got a secret information that huge quantity of illicit



liquor was being transported by a vehicle. In course of patrolling duty by the Police team, they found two vehicles coming towards Mahuarwa Chowk. On suspicion, they tried to stop both the Cars, but the driver of the said vehicle dashed one of the Police personnel and fled away, as a result of pushing from behind by the Car, the Police personnel died and a case was registered against the petitioner being Rajepur P.S. Case No. 20 of 2018, dated 6th February, 2018, registered under Sections 302, 120(B), 414/34 of the I.P.C. and Sections 30(a) and 45 of the Bihar Prohibition and Excise Act, 2016.

4. The C.I.C.L. surrendered before the Juvenile Justice Board on 5th July, 2018 and since then he is in Observation Home.

5. It is submitted by the learned Advocate for the petitioner that the trial of the case has not been concluded by the Children's Court. The Children's Court considering the social investigation report submitted by the Probation Officer found that if, bail is granted in favour of the petitioner, he will be exposed to the dreaded criminals. He has previous criminal antecedents inasmuch as he was implicated in Pakaridayal P.S. Case No. 48 of 2023, under Sections 272/273/34 of the I.P.C. and Section 30 (a) of the Bihar Prohibition and Excise Act, Aurangabad P.S. Case No. 364 of 2022, under Section 30 (a) of the Bihar Prohibition and



Excise Act and also in Madhuban P.S. Case No. 378 of 2020, under the same provision. Thus, it is clear that the C.I.C.L. is a habitual offender and he used to act as a carrier of illicit liquor, which is banned in the State of Bihar. On such consideration, the Children's Court rejected the prayer for bail of the C.I.C.L.

6. It is not in dispute that the C.I.C.L. is in custody since 5th July, 2018 and has been staying in Observation Home. Section 18 (1) (g) of the Juvenile Justice (Care and Protection of Children) Act, 2015, prescribes that the Board may pass an order directing the child to be sent to a special home, for such period, not exceeding three years, as it thinks fit, for providing reformatory services including education, skill development, counselling, behaviour modification therapy, and psychiatric support during the period of stay in the special home.

7. Thus, the Board's power to confine a C.I.C.L. is limited to three years. The petitioner is staying in Special Home for more than five years. Therefore, the petitioner is entitled to be released on bail.

8. For the reasons stated above, the impugned order passed by the learned Additional Sessions Judge-I-cum-Special Judge Children's Court, East Champaran, Motihari, in Children Trial No. 01 of 2019 is set aside.



9. The petitioner may be released under the custody of his father by executing a bond of Rs.20,000/- (Twenty thousand) with two sureties. One of whom must be the father and another must be local villagers having sufficient means, to the satisfaction of the learned Principal Magistrate, Juvenile Justice Board with further condition that if on bail, he must visit the Probation Officer once in a month and the Probation Officer shall submit his social investigation report to the Children’s Court on proper enquiry after a lapse of each two months till the disposal of the Children Trial No. 01 of 2019.

10. The instant revision is accordingly allowed.

(Bibek Chaudhuri, J)

pravinkumar/-

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CAV DATE	
Uploading Date	
Transmission Date	

