

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55520 of 2024

Arising Out of PS. Case No.-199 Year-2022 Thana- MAIRWAN District- Siwan

Prince Kumar Yadav son of Hardeo Yadav @ Hardeo Chaudhary R/o-
Pukhrera PS- Mairwa Dist- Siwan

... .. Petitioner

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s :	Mr. Udit Narayan Singh, Advocate
	Mr. Gajendra Kumar Singh, Advocate
For the Opposite Party/s :	Mr. Rajendra Prasad Nat, APP

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2 20-09-2024 This application has been filed under Sections 439 and 440 of the Code of Criminal Procedure (in short CrPC). The prayer is for grant of regular bail to the petitioner in connection with Mairwa P.S. Case No. 199 of 2022 registered for the offences punishable under Sections 392, 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

2. It appears on perusal of the FIR that the petitioner has been made accused in connection with this case and according to him, on the alleged date of occurrence he was about seventeen years two months, therefore, he has been adjudged juvenile. The petitioner is facing trial before the learned 1st Additional Sessions Judge-cum-Special Court, Siwan in J.E. Trial No. 11 of 2023. His application seeking bail in the said trial court has been rejected vide order dated 06.06.2024.

3. Earlier, when the prayer for bail of this petitioner was rejected by the learned Juvenile Justice Board, he had moved in appeal before the learned Special Judge, Siwan in Criminal Appeal No. 08 of 2023 and upon rejection of his prayer for bail in the said appeal, in accordance with the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the 'Act of 2015'), he filed a revision application being Criminal Revision No. 463 of 2023 before this Court. The said revision application was rejected by this Court.

4. Since the petitioner was more than sixteen years of age but below eighteen years at the time of commission of the offence, as alleged, he is being tried as an adult. In course of trial before the learned Special Judge, he moved a fresh application for bail and that has been rejected. At this point of time, instead of seeking setting aside of the said order and filing of an appropriate application in this Court in accordance with the provisions of the Act of 2015, the petitioner has chosen to file an application under Sections 439 and 440 CrPC.

5. Learned counsel for the petitioner has tried to explain the filing of the application under the provisions of CrPC by stating that since the petitioner has attained majority and now he is aged about nineteen years, therefore the prayer for bail has been filed under the provisions of CrPC.

6. When the attention of the learned Advocate for the petitioner was drawn towards the scheme of the Act of 2015 and the relevant provisions such as Section '18', '19' and '20' of the Act of 2015 were pointed out to him, it was shown that a child in conflict with law upon attaining majority is required to be sent to the place of safety till he attains the age of twenty one years and thereafter he shall be transferred to jail, learned counsel for the petitioner submits that he has filed this application under a wrong notion of law that once a juvenile crosses eighteen years of age, he comes out of the purview of the provisions of the Act of 2015.

7. Learned counsel submits that he had got inquired through his *Munshi* from the Stamp Reporter in this connection and only after that consultation and becoming sure about maintainability of this application, it has been filed.

8. At this stage, learned counsel submits that he may be permitted to convert this application into revision application. He would file a supplementary affidavit for that purpose.

9. This Court is of the considered opinion that this criminal miscellaneous application wherein no prayer has been made for setting aside of the order of the learned trial court, cannot be allowed to be converted and it would be appropriate to allow the petitioner to file a fresh application as may be advised to him in accordance with law.

10. Learned counsel submits that in such circumstance, he may be granted liberty to file an appropriate application.

11. This application is dismissed as withdrawn with liberty as prayed for.

12. Before this Court would part with this order, it is deemed expedient to constitute an inquiry into the matter as to how a Stamp Reporter of this Court would indulge a *Munshi* of an Advocate and provide any advice as has been claimed. Learned counsel for the petitioner has stated that he will give the name of the *Munshi* and his registration number etc.

13. The file be sent to the learned Registrar General of this Court to institute an appropriate inquiry into the matter and complete the same within six weeks so that this kind of menace may be stopped at the earliest.

14. This application is being disposed of but a copy of the result of the inquiry shall be made available to this Court for perusal on 11.11.2024.

(Rajeev Ranjan Prasad, J)

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