

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.988 of 2025

Arising Out of PS. Case No.-1034 Year-2022 Thana- MADHEPURA District- Madhepura

Bikku Kumar @ Biku Kumar Son of Laln Kamti @ Lalan Kumar Kamti
Resident of Village- Bhelwa, P.S.- Madhepura, Distt.- Madhepura, under the
Guardianship of his father Sri Laln Kamti @ Lalan Kumar Kamti

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Sanjay Kumar Singh

For the Respondent/s : Mr. Usha Kumari 1

CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI
ORAL ORDER

4 11-07-2025 On 27th June 2025, this Court passed an order in connection with Madhepura P.S. Case No. 1034 of 2022 under Sections 302/216/34 of the IPC and Section 3(i)(r)(s)/3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, and Section 27 of the Arms Act, raising a question as to whether the instant appeal under Section 101(5) of the Juvenile Justice (Care and Protection of Children) Act, 2015, is maintainable in view of the provision contained in Section 14-A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

2. I have heard the learned counsels for the appellant as well as the learned counsel for the Special Public Prosecutor.

3. Indisputably, the appellant is a minor, represented



by his father, namely, Lalan Kamti @Lalan Kumar Kamti. He has been booked in connection with Madhepura P.S. Case No. 1034 of 2022. Since the Juvenile Justice Board, Madhepura, holds the CiCL above the age of 17 years, his application for bail was sent to the children's court for disposal. The children's court rejected the said application on the ground that the nature of the offense is heinous; the offending weapon (a country-made pistol) was recovered from the possession of the appellant on the date of commission of the offence, he was aged 17 years, 2 months, and 7 days. The Social Investigation Report shows his culpable nature and association with local criminals. The appellant was involved in committing the murder of an on-duty *chowkidar*. He opened fire to kill the informant, but the bullet did not hit him; therefore, the children's court held that, in view of the provision of Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015, his prayer for bail should not be granted.

4. It is submitted by the learned Advocate for the appellant that another co-accused has already been granted bail by a co-ordinate Bench of this Court in CR. APP (SJ) No. 3152 of 2024 passed on 10th April 2025.

5. On perusal of the impugned order, I find that the



learned Children's Court rejected the prayer of bail of the appellant, taking into consideration the provision of Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

6. Section 15 speaks about the preliminary assessment into the heinous offence by the board. Section 15 of the said Act runs thus:

“15. Preliminary assessment into heinous offences by Board.—(1) In case of a heinous offence alleged to have been committed by a child, who has completed or is above the age of sixteen years, the Board shall conduct a preliminary assessment with regard to his mental and physical capacity to commit such offence, ability to understand the consequences of the offence and the circumstances in which he allegedly committed the offence, and may pass an order in accordance with the provisions of sub-section (3) of section 18:

Provided that for such an assessment, the Board may take the assistance of experienced psychologists or psycho-social workers or other experts.

Explanation.—For the purposes of this section, it is clarified that preliminary assessment is not a trial, but is to assess the



capacity of such child to commit and understand the consequences of the alleged offence.

(2) Where the Board is satisfied on preliminary assessment that the matter should be disposed of by the Board, then the Board shall follow the procedure, as far as may be, for trial in summons case under the Code of Criminal Procedure, 1973 (2 of 1974):

Provided that the order of the Board to dispose of the matter shall be appealable under sub-section (2) of section 101:

Provided further that the assessment under this section shall be completed within the period specified in section 14.”

7. The children's court cannot make any inquiry or come to any finding under Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015 because excessive power vests on the Board. In view of such circumstances, this Court directs the Juvenile Justice Board, Madhepura to make an inquiry under Section 15 of the Juvenile Justice (Care and Protection of Children) Act, 2015 to come to a finding as to whether the alleged offence and the role of the appellant is heinous or not and if that be so, whether his trial would be



conducted under the provision of Section 18(3) of the said Act.
The report of the preliminary inquiry be sent to the learned
Special Court, who will dispose of appellant’s application for
bail in accordance with law.

8. The appellant is permitted to file a fresh application
for bail, in view of the order passed by this Court.

9. With the aforesaid order, the instant Criminal
Appeal (SJ) No. 988 of 2024 is disposed of.

(Bibek Chaudhuri, J)

Suraj Dubey/-

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