

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.423 of 2017

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Md. Akib Hussain, Son of Md. Jabir Hussain, Resident of village -
Mirzapur Bardah, Police Station - Mufassil, District - Munger

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Md. Najmul Hodda
For the Respondent/s : Mr. Sri Binod Kumar

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 31-05-2017 The petitioner is accused in connection with

Jamalpur P.S. Case No. 42 of 2016, a case under Sections 25(1)(a-
b)(1-a-a)(1-b)/26/35 of the Arms Act and Section 164 of the
Indian Railways Act.

The petitioner is in custody since 17.08.2016 on
the allegation that semi manufactured of fire arms 30 pieces, from
the bag of the petitioner, were recovered.

The petitioner was declared juvenile on
01.10.2016 by the Juvenile Justice Board, Lakhisarai. However,
learned Juvenile Justice Board vide order dated 20.12.2016
refused to grant bail to the petitioner and the said order was
affirmed by the learned Sessions Judge, Lakhisarai in Cr. Appeal
No. 01 of 2017 on 22.03.2017. Both the orders are under challenge
in this Criminal Revision Application.



It appears that both the Courts below have refused the prayer for bail on the ground of seriousness of the allegation against the petitioner that several semi manufactured illegal arms were recovered and in the event of release, the petitioner is likely to go into the association of the known criminals. He would likely to be physically, psychologically and mentally exploited and the ends of justice would be defeated in the event of his release.

Learned Courts below have not recorded as to who are known criminals in whose associations the petitioner is likely to go in the event of his release. They have also not discussed the materials on the basis whereof they assumed that in the event of release, the petitioner may be morally, physically and psychologically exploited/abused, rather ignored the mandate of the Juvenile Justice Act that a juvenile should not be detained in custody and the proviso to Section 12 of the Juvenile Justice Act should not be used as sword for refusing bail to the juvenile without any material to substantiate the requirement of the proviso to Section 12 of the Juvenile Justice Act.

In my view, both the Courts below have not considered the requirement of law in correct prospective. Moreover, their conclusions are not based on materials available



on the record. Hence, the order dated 20.12.2016 passed by the Juvenile Justice Board, Lakhisarai in Case No. G.R. 223 of 2016 and the judgment dated 22.03.2017 passed by learned Sessions Judge, Lakhisarai in Cr. Appeal No. 01 of 2017 are hereby set aside.

Let the petitioner, named above, on the execution of surety bond by one of his parents as well as on filing of the affidavit by one of the parents that he/she would take proper care of the petitioner and would not allow the petitioner to go into the association with antisocial elements as well as affidavit that he/she would produce the petitioner as and when required during enquiry, be released on bail to the satisfaction of learned Principal Magistrate, Juvenile Justice Board, Lakhisarai in connection with G.R.P. Jamalpur P.S. Case No. 42 of 2016(G.R. No. 223 of 2016.

Accordingly, the application stands allowed.

(Birendra Kumar, J)

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