

(2017) 05 PAT CK 0073
In the Patna High Court
Case No : 580 of 2017

Shubham Kumar, Son of Sri Rajendra Singh
Vs

APPELLANT

The State of Bihar

RESPONDENT

Date of Decision : 29-05-2017

Acts Referred:

Indian Penal Code, 1860, Section 272,
Section 273 - Adulteration of food or drink intended for sale
- Sale of noxious food or drink
Juvenile Justice (Care and Protection of

Citation : (2017) 05 PAT CK 0073

Hon'ble Judges : Birendra Kumar

Bench : SINGLE BENCH

Final Decision : Allowed

Judgement

1. This Criminal Revision Application is directed against the order dated 06.04.2017 passed by the learned Sessions Judge, Begusarai in Cr. Appeal No. 31 of 2017 whereby the learned Sessions Judge refused to grant bail to the petitioner, a juvenile and refused to set aside the order dated 01.03.2017 passed in J.J.B. Case No. 01 of 2017 whereby the learned Juvenile Justice Board has also refused to grant bail to the petitioner. The aforesaid J.J.B. Case arises out of Barauni Rail P.S. Case No. 123 of 2016 registered under Section 30(a) of the Bihar Prohibition and Excise Act, 2016 as well as Sections 272 and 273 of the Indian Penal Code, as the petitioner was found carrying foreign liquor.

2. Submission of the petitioner is that the petitioner raised

the issue that on the date of occurrence, he was a juvenile and accordingly, his matter was referred to Juvenile Justice Board, Begusarai. By the order dated 31.01.2017, the petitioner was declared as a juvenile after enquiry and, thereafter, prayer for bail was refused by the learned Juvenile Justice Board, firstly, on the ground that the witnesses have supported the allegation against the petitioner before the police and, secondly, for the reason that now-a-days veteran criminals are using the juvenile to achieve their criminal goals. Moreover, there are chances of the petitioner mixing with more criminals and there is apprehension of his moral, physical or psychological exploitation.

3. Learned Sessions Judge while exercising the power of appeal under Section 52 of the Juvenile Justice (Care and Protection of Children) Act, 2000, has also refused the prayer for bail of the petitioner stating that proviso to Section 12 of Juvenile Justice (Care and Protection of Children) Act empowers not to grant bail if release of the juvenile is likely to bring him into association with any known criminal or expose the juvenile to moral, physical or psychological danger. Learned Sessions Judge has not discussed the material for such satisfaction or the name of the known criminal in whose association the petitioner is likely to go in the event of his release.

4. Submission of the petitioner is that the Juvenile Justice (Care and Protection of Children) Act is there with an object to protect the children and the proviso to Section 12 of the Act should not have been used as a sword to refuse the bail only on the ground that in the event of release, the petitioner would go into association with any known criminal or there is chances of his exploitation.

5. Learned counsel for the State opposed the prayer for bail on the ground that the reasons assigned by both the court below are based on the provisions of law permitting them to refuse to grant

bail if the case comes under proviso of that Section.

6. In my view, there is no material to substantiate that in the event of release, the petitioner would go into association with any known criminal. Moreover, to avoid any suspicion of his moral, physical or psychological exploitation, the court below could have put such condition which would have been appropriate in the facts and circumstances of the case. However, the mandate of law that grant of bail to the juvenile is rule, should not have been violated, in the casual manner.

7. Considering the facts and circumstances, let the petitioner, above named, be released on bail on execution of surety bond of Rs. 10,000/- (Ten thousand) by one of his parents to take proper care of the juvenile and shall not allow the juvenile to mingle with criminals and shall produce him as and when required during enquiry before the Learned Juvenile Justice Board, Begusarai, to the satisfaction of the learned Juvenile Justice Board, Begusarai, in connection with J.J.B. Case No. 01 of 2017 arising out of Barauni Rail P.S. Case No. 123 of 2016.

8. With the aforesaid observation, this Criminal Revision Application stands allowed.