

(2016) 08 PAT CK 0101

PATNA HIGH COURT

Case No: Criminal Revision No. 131 of 2016, (Arising Out of PS. Case No. - null Year - null Thana - null District - Sitamarhi).

Amalesh Kumar @ Amaresh
Kumar, S/o Brij Kishore Singh,
Resident of Village - Bariyarpur,
P.S. and District - Sitamarhi,
Under the Guardianship of his
father Brij Kishore Singh S/o Late
Ram Swaroop Singh, Resident of
Village - Bariyarpur, P.S., District
-

APPELLANT

Vs

RESPONDENT

Date of Decision: Aug. 19, 2016

Acts Referred:

- Penal Code, 1860 (IPC) - Section 385, Section 387

Citation: (2016) 4 ECRC 369 : (2017) 2 PCCR 8

Hon'ble Judges: Ashwani Kumar Singh, J.

Bench: Single Bench

Advocate: Dr. Alok Kumar Alok and Mr. Birendra Kumar, Advocates, for the Petitioner; Mr. Anant Kumar, APP, for the Respondent

Final Decision: Allowed

Judgement

Mr. Ashwani Kumar Singh, J. (Oral)—The petitioner, a juvenile in conflict with law, aged about sixteen year ten month and twenty-one days on the date of occurrence, is in observation home at Muzaffarpur since 16th March, 2015 in connection with Sitamarhi P. S. Case No. 324 of 2015 registered under Sections 385 and 387 of the Indian Penal Code.

2. It is submitted by the learned counsel for the petitioner that the petitioner is neither named in the FIR nor he was put on T.I. Parade during investigation. He was

apprehended by the police in connection with the aforesaid case on the basis of disclosure made by one Chandan Kumar, a co-accused. His application for bail was rejected by the Juvenile Justice Board, Sitamarhi (For short "J.J. Board") on 29th September, 2015 on the ground of seriousness of the offence and involvement of the petitioner in some other cases.

3. It has been further submitted that the appellate court has also rejected his application on the ground of gravity of the allegation and complicity of the petitioner in some other cases apart from the present one. It is submitted that the J.J. Board and the appellate court have not appreciated the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2000 (For short "the Act of 2000") in correct perspective and they have dealt with the case of the petitioner as an adult offender.

4. Learned counsel for the State has opposed the application for grant of bail to the petitioner. He has submitted that the petitioner is a habitual offender and, therefore, there is no illegality in the order passed by the court below.

5. I have heard learned counsel for the parties and perused the record.

6. Be it noted that the position with regard to bail is very different under juvenile jurisprudence. In this regard, it is relevant to take note of Section 12 of the Act of 2000, which reads as under:-

"12. Bail of juvenile.-(1) When any person accused of a bailable or non-bailable offence, and apparently a juvenile, is arrested or detained or appears or is brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a Probation Officer or under the care of any fit institution or fit person but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.

(2) When such person having been arrested is not released on bail under sub-section (1) by the officer incharge of the police station, such officer shall cause him to be kept only in an observation home in the prescribed manner until he can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board it shall, instead of committing him to prison, make an order sending him to an observation home or a place of safety for such period during the pendency of the inquiry regarding him as may be specified in the order".

7. From a perusal of Section 12 of the Act of 2000, it would be evident that the prayer for bail of a juvenile in conflict with law can be refused on three prescribed grounds and not on the grounds of seriousness or gravity of the offence. A juvenile

in conflict with law may not be released if there appear reasonable grounds for believing that the release is likely to bring him into association with known criminals or expose him to moral, physical or psychological danger or his release would defeat the ends of justice.

8. In the present case, it does not appear that the J.J. Board or the appellate court had called for any social investigation report from the Probation Officer or any other authority in respect of the petitioner. The bail has been rejected only on the ground of the seriousness of offence and his implication in more than one case. In case of a juvenile in conflict with law bail is a rule and rejection is an exception. If the rejection of the bail is not based on any grounds mentioned under Section 12 of the Act of 2000, it would be bad in the eye of law.

9. Here, in the present case, the rejection of the bail of the petitioner is on a ground different from what has been prescribed under Section 12 of the Act of 2000.

10. Furthermore, the petitioner is in observation home for about eighteen months and the inquiry proceeding is still pending. The proviso to Section 14 of the Act of 2000 contemplates that an inquiry regarding juvenile shall be completed within a period of four months from the date of its commencement, unless the period is extended by the Board, having regard to the circumstances of the case and in special cases after recording the reasons in writing for such extension.

11. In the present case, there is nothing on record to justify the prolonged inquiry spread over a period of eighteen months in respect of the petitioner in connection with the aforesaid case.

12. Accordingly, the impugned order 15th December, 2015 passed by the learned 1st Additional Sessions Judge, Sitamarhi in Cr. Appeal No.108 of 2015/35 of 2015 and the order dated 29th September, 2015 passed by the J.J. Board, Sitamarhi, in G.R. No. 1409 of 2015, arising out of Sitamarhi P.S. Case No.324 of 2015, are set aside. As a consequence thereof, the petitioner is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount to the satisfaction of the J.J. Board, Sitamarhi in connection with Sitamarhi P.S. Case No. 324 of 2015.

13. The revision application stands allowed.