

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3300 of 2018

Arising Out of PS. Case No.-693 Year-2016 Thana- SIWAN CITY District- Siwan

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Ajit @ Ajit Ram @ Ajit Kumar Ram son of Lalbabu Ram, resident of Village- Satpokhariya Ramnagar, P.S. Siwan Town, District- Siwan under the guardianship of his father namely Lalbabu Ram son of Chunni Ram, R/O village- Satpokhariya Ramnagar P.S. Siwan Town, District- Siwan.

... .. Appellant

Versus

The State Of Bihar

... .. Respondent

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Appearance :

For the Appellant/s : Mr.Ajay Kumar Pandey, Advocate

For the Respondent/s : Mr.Sri Zeyaul Hoda, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 18-04-2019

Heard learned counsel for the appellant and learned counsel for the State.

2. This appeal under Section 101 (5) of the Juvenile Justice (Care & Protection of Children) Act, 2015 is directed against the order dated 11.07.2018 passed by the learned Additional Session Judge-1st-cum- Special Judge (Juvenile) Siwan in Juvenile Trial No. 04 of 2018 arising out of Siwan Town P. S. Case No. 693 of 2016.

3. Learned counsel for the appellant has contended that while passing the impugned order, the court below has neither appreciated the case of the appellant on facts nor on law. It failed to appreciate that save and except hypothetical presumption and wild suspicion, there is nothing against the



appellant. It also failed to appreciate that in the inquiry report submitted by the Probation Officer, the character of the appellant was found good and he is not involved in any other case. He has pleaded that there was no material before the court below on the basis of which it could have come to the conclusion that release of the appellant would defeat the ends of justice. Lastly, he has urged that co-accused Saddam @ Saddam Hussain whose case is identical to that of the appellant and who is an adult has already been granted bail by a co-ordinate Bench of this Court vide order dated 22.06.2018 passed in Cr. Misc. 24232 of 2018.

4. Per contra, learned counsel appearing for the State has submitted that the appellant is an accused in a case instituted inter alia under Section 302 of the Indian Penal Code. The Juvenile Justice Board after preliminary assessment of mental and physical capacity of the appellant to commit such offence, ability to understand the consequences of the offence and the circumstances in which it allegedly committed the offence opined that there is a need of trial of the appellant as an adult. Thus, it sent his case to the children's court for trial. The children's court upon inquiry came to the conclusion that release of the appellant would defeat the ends of justice. Under the circumstances, even if the adult accused Saddam @ Saddam Hussain has been granted bail



by a co-ordinate Bench of this Court, the appellant does not deserve to be released on bail.

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

6. Apparently, there is no eye witness to the occurrence of offence. The name of the appellant and co-accused Saddam @ Saddam Hussain has been given by the informant because of the fact that they were apprehended by some villagers while they had thrown the cloth of the deceased. The Probation Officer reported in his inquiry report that the character of the appellant is good. Merely because, the inquiry report did not disclose the name of the persons, who told about the character of the appellant in his report, the court below came to the conclusion that the report is not believable. Apart from that, there was no material before the court below on the basis of which it could have come to the conclusion that the release of the appellant would defeat the ends of justice. In absence of any reason for arriving at such conclusion, the order impugned passed by the court below cannot be sustained. Moreover, I see no reason as to why bail should not be granted to the appellant especially when the co-accused Saddam @ Saddam Hussain whose case is identical to



that of the appellant and who is being tried as a adult has been granted bail by a co-ordinate Bench of this Court.

7. In that view of the matter, impugned order dated 11.07.2018 passed by the learned Additional Session Judge-1st-cum- Special Judge (Juvenile), Siwan in Juvenile Trial No. 04 of 2018 arising out of Siwan Town P. S. Case No. 693 of 2016 is set aside. The appellant is directed to be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand only) with two sureties of the like amount each to the satisfaction of Additional Session Judge-1st-cum-Special Judge (Juvenile), Siwan in Juvenile Trial No. 04 of 2018 arising out of Siwan Town P. S. Case No. 693 of 2016, subject to the condition that one of the bailors should be his father.

8. The appeal stands allowed.

(Ashwani Kumar Singh, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.04.2019
Transmission Date	22.04.2019

