

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2117 of 2019

Arising Out of PS. Case No.-236 Year-2018 Thana- BUXAR District- Buxar

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LALU KUMAR @ LAL BABU @ LALLU, age 17 years, Son of Loha Singh under guardianship of his father Loha Singh, Son of Ram Kailash Singh, Resident of Village - Gandhi Nagar, Ward No. 2, Buxar, Bazar Samiti, P.S.- Buxar (M), Distt - Buxar.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

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Appearance :

For the Appellant : Mr.Bachan Jee Ojha, Advocate.
For the Respondent : Mrs.Usha Kumari 1, Addl. P.P.

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

15 05-12-2020 Due to COVID-19 Pandemic, the matter is being taken up by way of virtual Court proceeding.

The matter has been listed under the heading 'For Orders' under the orders of Hon'ble the Chief Justice.

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

This Criminal Appeal has been preferred against the order dated 11.12.2018, passed by learned A.D.J.-I-cum-Special Judge, SC/ST Act, POCSO, Buxar, in connection with Buxar (T) 236/2018/Child Spl. Case No. 10/2018 by which the learned court below rejected the regular bail of the appellant who has been made accused for the offence under Sections 302, 307/34 of the I.P.C. and 27 of the Arms Act.



The prosecution story, in brief, is that on 08.05.2018 at about 7.20 P.M., the informant got information that some one has given bullet shot to his son Sonu Kumar in Bypass Bus Stand Road, near Vaishnawi Fuel Centre and when he reached at the place of occurrence he saw that his son Sonu Kumar has sustained one bullet shot in his right side of chest and he was taken to hospital where he was declared dead. The appellant and co-accused named in the F.I.R. took the son of the information towards Jyoti Chowk and gave bullet shot to Sonu Kumar causing his death.

It has been submitted by learned counsel for the appellant that the appellant is languishing in custody since 09.05.2018. The appellant has falsely been implicated in the present case. Charge sheet has been submitted in the present case. There is no allegation of tampering with the witnesses alleged against the appellant. The appellant has been made accused in the present case only on the basis of suspicion. Except for suspicion, there is no other substantive evidence to suggest the implication of the appellant in the present case. Subsequently, in course of investigation, it has come that the main allegation of assault is alleged against the co-accused, namely, Kamlesh Kumar.



The report of the Probation Officer was also called for. Nothing adverse has been indicated by the Probation Officer against the appellant. The mental condition of the appellant was found normal. The appellant studied up to VIIIth Standard. In the social investigation report, it is also suggested that the benefit of Juvenile Justice can be given to the appellant.

Further the report of the Probation Officer does not reveal that there is material to substantiate that the appellant lacks proper parental care nor there is any conclusive finding by the Probation Officer that in the event of grant of bail the appellant is likely to go into association of known criminals.

The law requires that reasonable grounds should be there for believing that in the event of grant of bail the appellant would go into association of any “known criminal” or exposed to moral, physical and psychological danger or the release of the person would defeat the ends of justice.

Hence, the impugned order suffers from failure to exercise jurisdiction vested in law and it is result of error apparent on the face of the record and non-consideration of provisions of law. Accordingly, this Criminal Appeal is allowed and the order dated 11.12.2018, passed by learned A.D.J.-Ist-cum-Special Judge, SC/ST and POCSO Act, Buxar in Buxar (T)



236/2018/Child Spl. Case No. 10/18, is set aside.

Let the appellant be released on bail on furnishing bail bonds of Rs. 10,000/-(Rupees Ten Thousand Only) with two sureties of the like amount each to the satisfaction of learned A.D.J.-Ist-cum-Special Judge, SC/ST and POCSO Act, Buxar in Buxar (T) 236/2018/Child Spl. Case No. 10/18, with the condition that the appellant will be produced as and when required.

(Sudhir Singh, J)

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