

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2675 of 2019

Arising Out of PS. Case No.-36 Year-2018 Thana- MAHILA P.S. District- Bhojpur

GUDDU MIAN @ MD. AAJAD RAYEEN @ AZAD RAYEEN Son of Md. Ishamaeal Resident of Village - Gundi, P.S.- Barahara (Krishnagarh), District- Bhojpur (Ara) under guardianship of his elder brother namely Sadam Rayean

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s :

For the Respondent/s :

CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 10-02-2020 None appears on behalf of the parties.

Perused the record.

This appeal has been preferred under Section 101(5) of the Juvenile Justice (Care and Protection of Children) Act, 2015, against the refusal of the prayer for bail of the appellant vide order dated 03.06.2019 passed by the learned Children Court, Ara in connection with Bhojpur (Ara) Mahila P.S. Case No. 36 of 2018, corresponding to Children Case No. 7 of 2019 registered under Sections 376, 323, 504 and 506/34 of the Indian Penal Code and Section 4 of the POCSO Act.

Allegation in the F.I.R. is that appellant was in physical relation with the informant since last one year on the pretext of marriage. When the informant was pregnant from this appellant, the appellant refused to marry with her.



The appellant was declared juvenile by the Juvenile Justice Board.

There was no report of the Probation Officer before the Children Court which would be evident from the impugned order and in absence of any contrary report or any other material, the learned Children Court while refusing prayer for bail observed that in the event of release, the appellant may go into bad association of the locality.

Since the learned Children Court has misconstrued the scheme of Juvenile Justice (Care and Protection of Children) Act, the impugned order is not sustainable in law. Under scheme of the Act, a juvenile is entitled for bail irrespective of nature and seriousness of allegation against him. Moreover, there was no material to substantiate that in the event of release, the appellant would go into bad association of the locality.

The proviso to Section 12 of the Juvenile Justice (Care and Protection of Children) Act clearly says that the Court must be satisfied that in the event of release the juvenile is likely to go into association with any known criminal. The impugned order does not disclose the identity of the criminal in whose association the appellant would go in the event of release.

In absence of material on the record to substantiate



the conclusion of the learned Children Court, in my view, the impugned order is not sustainable in law. Accordingly, the same is hereby set aside and this appeal is allowed.

The appellant, above named, is directed to be released at once on execution of surety bond by either of the parents of the appellant giving undertaking that they shall keep proper care and upkeep of the appellant and shall fully cooperate in the pending matter before the Children Court.

(Birendra Kumar, J)

mantreshwar/-

U		T	
---	--	---	--

