

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4514 of 2019

Arising Out of PS. Case No.-310 Year-2018 Thana- KRITYANAND NAGAR District-
Purnia

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Ashish Kumar Yadav S/o Kalanand Yadav @ Kamanand Yadav R/o Village-
Balsara, P.S.- Raniganj, District- Araria.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Kundan Kumar Singh, Advocate

For the Respondent/s : Mr. Abha Singh, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 29-01-2020 Heard learned counsel for the parties.

This appeal has been preferred under Section 101(5) of the Juvenile Justice (Care & Protection of Children) Act, 2015, against the order dated 19.08.2019 passed in Special Child Case No.5 of 2019, arising out of K. Nagar P. S. Case No.310 of 2018 by the learned 1st Additional Sessions Judge-I-cum-Special Judge, Children's Court, Purnea, under Section 394 of the Indian Penal Code and Section 27 of the Arms Act.

The FIR of the occurrence of robbery is against unknown miscreants in the age group of 20-25. The appellant was remanded in the case from some other case. However, he was declared juvenile by the learned Juvenile Justice Board.



By the impugned order the learned Children's Court Purnea has refused the prayer for bail of the appellant on the ground that appellant confessed his guilt in the disclosure statement made to the police while in police custody. In the event of release the appellant is likely to go into the association of unsocial element and there is chances that his physical, psychological and mental security would be endangered.

Submission of learned counsel for the appellant is that on the basis of weak material against the appellant even on merit an adult could have been allowed bail. Moreover, the learned Children's Court ignored the spirit of the Juvenile Justice (Care and Protection of Children) Act, 2015, whereunder bail to a juvenile is a rule irrespective of the seriousness of the allegation. The bail could have been refused only when the case was covered under the proviso to Section 12 of the said Act. The Court-below has taken aid of the proviso but without any material to substantiate the same.

Learned counsel for the State simply opposed the prayer for bail.

Considering the facts of the case aforesaid as well as submission of learned counsel for the appellant that the law is well settled that bail to a juvenile is a rule irrespective of the



nature and seriousness of the allegation against him as well as considering the fact that this case is not covered under the proviso to Section 12 of the Act in absence of any material to substantiate the same. Hence, the impugned order is set aside and this appeal is allowed.

Let the appellant, above named, be released at once on execution of surety bond by either of the parents of the appellant giving undertaking that he/she shall keep proper care and upkeep of the appellant and shall fully cooperate in early conclusion of the enquiry pending before the Board.

With the aforesaid observation, this appeal is allowed.

(Birendra Kumar, J)

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