

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.5020 of 2019

Arising Out of PS. Case No.-222 Year-2018 Thana- BARGAINIA District- Sitamarhi

MD. ASHIF KHAN @ ASHIF KHAN @ ASHIF KHA Son of Mehrullah
Khan @ Mehal Khan Resident of Village - Akhta Got, P.S.- Bairgania
(Suppi), District - Sitamarhi.

... .. 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

3 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 28.03.2019 passed by the learned Children Court, Sitamarhi in Bairgania P.S. Case No. 222 of 2018, Corresponding to JJB Case No. 1455 of 2018, registered under Sections 147, 148, 149, 325, 323, 324, 307, 120B and 302/34 of the Indian Penal Code and Section 27 of the Arms Act.

According to F.I.R., the main assailant is Md. Rustam Khan who fired from his rifle causing injury at the pineal



(kanpatti) of the deceased. Thereafter, other named accused persons assaulted with other weapons. The appellant was a member of unlawful assembly. However, no overt act is specifically alleged against the appellant.

The appellant was declared juvenile by the Juvenile Justice Board.

Prayer for bail has been refused by the impugned order only considering the nature and seriousness of the allegation and ignoring the aim and object of the Juvenile Justice (Care and Protection of Children) Act.

The law is well settled that bail to a juvenile is a rule irrespective of the nature and seriousness of the allegation unless the case is covered under the proviso to Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

Learned Children Court has not considered material on the record to come to the conclusion that the case of the appellant is covered under the proviso to Section 12 of the Act.

Under the circumstance, it is held that the impugned order is against the mandate of law. Hence, the impugned order is 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)

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