

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4928 of 2019

Arising Out of PS. Case No.-14 Year-2019 Thana- HASPURA District- Aurangabad

DEEPAK KUMAR Son of Bhushan Yadav (under guardianship of his father Bhushan Yadav Son of Sakaldev Yadav) Resident of Village- Srinam- Bigha, (Shahar Telpa), P.S.- Karapi, District- Arwal, Bihar

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bachan Jee Ojha, Adv.

For the Respondent/s : Mr. Syed Ashfaque Ahmad, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
CAV ORDER

4 13-01-2020 Heard learned counsel for the appellant and learned APP for the State.

This appeal under section 101(5) of the Juvenile Justice Act has been preferred against the order dated 23.09.2019 passed in Haspura P.S. Case No. 14 of 2019 (C.C. No. 07 of 2019) whereby the learned 1st Additional District & Sessions Judge-cum-Special Judge (Children Court), Aurangabad was pleased to reject the application for bail of the appellant.

As per allegation in the FIR, registered for the offence punishable under sections 302 and 120B of the Indian Penal Code and section 27 of the Arms Act, it is stated by the informant that early morning on the date of occurrence, he along



with others had proceeded for a morning walk when the three named accused persons including the appellant herein came near them and Vijendra Yadav fired with a pistol on the temple of the elder brother of the informant, as a result of which he fell down injured. Thereafter, the other accused Sanjeet Kumar fired with a pistol hitting the informant's brother in his stomach and he died on the spot. Thereafter, it is stated that the appellant fired on the informant which luckily did not hit him. It is further stated that all the three named accused persons escaped on two motorcycles which were being driven by two unknown persons, who had kept the motorcycle in a running condition.

It is submitted by learned counsel for the appellant that the appellant was produced before the Juvenile Board which conducted an enquiry with respect to his age. As would be evident from the order dated 02.07.2019 (Annexure-2) passed by learned Additional District Judge-1st, Aurangabad, the age of the appellant on the date of occurrence was found to be less than 18 years and he was declared to be a child in conflict with law. It is further submitted that in spite of finding him to be a juvenile, the learned court below erroneously rejected his bail. It was submitted that even from the allegations in the FIR, the assailants are said to be Vijendra Yadav and



Sanjeet Kumar and not this appellant. It was further submitted that the allegations as levelled against this appellant are absurd and concocted. He was not even present at the place of occurrence as he was appearing in the Intermediate Examination at Aurangabad. It is further submitted that the appellant would remain under the guardianship of his father, who has sworn the affidavit in the instant case to take care of the appellant.

The application for bail is opposed by learned APP for the State, who submits that the allegations are heinous in nature.

Having heard learned counsel for the appellant and learned APP for the State and taking into consideration that in the enquiry conducted by the Juvenile Board, by order dated 02.07.2019, the appellant has been found to be a juvenile in conflict with law as on the date of occurrence, the main allegations as per the FIR is on Vijendra Yadav and Sanjeet Kumar, the court is inclined to enlarge the appellant on bail.

In view of the facts and circumstances stated herein above the order dated 23.09.2019 passed in C.C. No. 07 of 2019 (Haspura P.S. Case No. 14 of 2019) by the learned 1st Additional District & Sessions Judge-cum-Special Judge (Children Court), Aurangabad is set aside and the appellant is directed to be enlarged on bail on furnishing bail bond of Rs.



10,000/- (Rs. Ten thousand only) with two sureties of the like amount each to the satisfaction of the learned 1st Additional District & Sessions Judge-cum-Special Judge (Children Court) Aurangabad in connection with Haspura P.S. Case No. 14 of 2019.

It is further directed that one of the bailors of the appellant shall be his father, who before the release of the appellant shall also give an undertaking that he shall take care of the appellant.

The appeal stands allowed.

(Partha Sarthy, J)

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