

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2049 of 2021**

Arising Out of PS. Case No.-97 Year-2020 Thana- BIHIA District- Bhojpur

Niket Kumar @ Deepu Through Yogendra Kumar Maurya @ Yogendra Singh
Son of Late Kishun Chandra Singh in the capacity of father natural guardian
of minor who is and has been declared minor by the Juvenile Justice Board,
Son of Yogendra Kumar Maurya, R/O Village- Osain, P.S.- Bihiya, Dist.-
Bhojpur

... .. Appellant/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Appellant	:	Mr.Md. Ataul Haque
For the State	:	Mr.S.A.Ahmad
For the Informant	:	Mr.Shiv Pd. Gupta

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

3. 05-08-2021 Heard learned counsel for the petitioner and learned
A.P.P. for the State and learned counsel for the informant.

The present appeal has been filed against order dated
08.02.2021, passed by learned 1st Additional Sessions Judge,
Bhojpur, Arrah in Special Children Case No. 08 of 2020 (arising
out of Bihiya P.S. Case No. 97 of 2020), by which, the bail
application of the petitioner has been rejected.

As per the prosecution case, on 08.04.2020 at about
9:00 PM, it is alleged that one of the co-accused Pradyumn
Kumar Thakur alongwith other co-accused came to the house
of informant and called his son and thereafter, son of the
informant went with them, but he did not return. On 09.04.2020



at about 9:00 AM, the informant came to know that FIR named accused persons have committed the murder of his son and thrown his dead-body in a pit near boring of Kashi Yadav in north of railway line at *badhar* of village Varuna.

It is submitted on behalf of the appellant that appellant is not named in the FIR. Name of the appellant has come only on suspicion that this appellant had made a call on the mobile phone of the deceased. The appellant has already been declared juvenile on 17.09.2020.

As per the statute, the bail application of a child in conflict with law is not to be consider on the merit of the case or nature of allegation or gravity of the offence, rather in terms of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as 'J.J.Act'). The Social Investigation Report, submitted by Legal-cum-Probation Officer in respect of appellant, is not adverse and there is no such finding to the effect that release of the appellant will expose him to moral, physical or psychological danger or will fall in association with criminals or his release would defeat the ends of justice. The bail application of the appellant has been rejected by the learned court below taking into consideration the nature of allegation and gravity of the offence, which is not



in consonance with Section 12 of the J.J.Act. The appellant has got clean antecedent and he is in custody since 17.09.2020.

However, learned counsel for the informant vehemently opposed the appeal and submitted that sufficient material has come against the appellant during course of investigation and on the disclosure made by this appellant, the rope, which was used for committing murder of deceased i.e. strangulation, was recovered and as such, there is no need to interfere with the order impugned.

At the time of considering the bail matter of a juvenile, the merit of the case or nature and gravity of allegation have no relevancy and are not ground to deny bail to a juvenile, rather the learned court below is required to look into the aspects, which are enumerated in Section 12 of the J.J.Act and Social Investigation Report.

Considering the rival submissions of the parties as also the Social Involvement Report and the position of law as stated above, order dated 08.02.2021, passed by learned 1st Additional Sessions Judge, Bhojpur, Arrah in Special Children Case No. 08 of 2020 (arising out of Bihiya P.S. Case No. 97 of 2020) is, hereby, set aside and the appeal is allowed.

Accordingly, the above-named appellant is directed to



be released on bail on furnishing bail bond of Rs.10,000/-(ten thousand) with two sureties of the like amount each to the satisfaction 1st Additional Sessions Judge, Bhojpur, Arrah in connection with Special Children Case No. 08 of 2020 (arising out of Bihiya P.S. Case No. 97 of 2020), subject to condition that one of the bailor will be father of the appellant and he (father of the appellant) would file an affidavit giving an undertaking to the effect that he will take care of good behaviour and child's (appellant's) well-being and will not allow him to go in the company of bad elements.

(Prabhat Kumar Singh, J.)

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