

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2026 of 2021

Arising Out of PS. Case No.-167 Year-2020 Thana- LAKHISARAI District- Lakhisarai

Gautam Kumar, son of Sri Manoj Sharma Resident of Bedhna Road Shanti
Tola, Barh Police Station- Barh, District- Patna

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Santosh Kumar Sinha 2, Adv.
For the Respondent/s : Mr. Zeyaul Hoda, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

3 21-08-2021 The matter has been taken up today for consideration
through video conferencing.

Heard learned counsel for the appellant and the learned
APP for the State.

When the matter was taken up on 12.08.2021, this Court
was inclined to allow the appellant's prayer for bail. But, in
view of some issue being raised regarding the maintainability
of the appeal, against the order passed by the Children Court,
the same was adjourned to enable the parties to make
submission in support thereof.

Mr. Sinha appearing for the appellant, in support of the
said submissions, submits that from the impugned order itself
it is apparent that the accused were tried before the Children
Court as the matter was referred to the Children Court under



Section 18(3) of the J.J. Act, having regard to the fact that the appellant was above 16 years and the gravity of the allegations. The appellant has not moved the Juvenile Justice Board for release on bail under Section 12 of the J.J. Act. He has directly moved before the Children Court where the trial is being considered. He refers to Section 101(5) of the J.J. Act to contend that in view of the provisions contained therein only an appeal would be maintainable against the impugned order dated 27.01.2021.

Having considered the provisions and on hearing the learned APP on this point, there is no dispute that the appeal would be maintainable.

Learned counsel for the appellant, at the very outset, submits that the order in Cr. Misc. No. 27461 of 2020 has wrongly been quoted in paragraph 2 of the supplementary affidavit and therefore, he does not wish to rely upon the same. Such prayer is allowed.

The present criminal appeal has been preferred challenging the order dated 27.01.2021 passed by learned Additional District & Sessions Judge-1-cum-Special Court, Lakhisarai, in B.P. No. 51 of 2021, whereby and whereunder the regular bail application of the appellant in connection with



Lakhisarai P.S. Case No. 167 of 2020/GR No. 322 of 2020 registered under Sections 302/120B/34 of the I.P.C. and Section 27 of the Arms Act and subsequently added Sections 25(1-b)a, 26(i) of the Arms Act, has been rejected.

Prosecution case is that the informant's father has been shot at by named accused persons who came on a motorcycle.

Counsel for the appellant submits that the appellant is not named in the F.I.R. and is a juvenile. He is innocent and has falsely been implicated in this case. Having no antecedents, he is in custody since 19.08.2020. Several co-accused persons, namely, Manish Kumar, who has stated about the appellant's involvement, Rahul Kumar, Rajesh Singh, Rudal Yadav, Shiv Kumar Singh, Sachida Nand Singh and Chandan Kumar Singh, have been granted bail under various orders passed by this Hon'ble Court.

This Court had earlier called for the Social Investigation Report. Perusal of the same does not disclose any material disentitling the appellant's consideration for bail for the limited reasons prescribed under Section 12 of the J.J. Act.

Learned A.P.P. has opposed the prayer for bail. However, based on the materials and the Social Investigation Report, he submits that in case of release, strict supervision of Probation



Officer is necessary.

Having considered all facts and circumstances, let the above named appellant, a juvenile, be released on bail on his furnishing bail bond of Rs. 10,000/-(Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge-1-cum-Special Court, Lakhisarai, in connection with Lakhisarai P.S. Case No. 167 of 2020/GR No. 322 of 2020, in favour of his father, who shall keep him under his guardianship and produce him as and when required and also subject to the condition that one of the bailors of the appellant shall be his father, who at the time of filing of the bonds, shall also give an undertaking that he will take proper care of the appellant and in case the appellant does not act as per his advice, he shall report the matter to the Officer-in-Charge of the concerned Police Station and further during the period of bail, the appellant will be under the supervision of concerned Probation Officer.

In the result, the appeal is allowed and the impugned order dated 27.01.2021 passed by learned Additional District and Sessions Judge-I-cum-Special Court, Lakhisarai, in B.P. No. 51 of 2021, is set aside.

This Court would expect that the appellant's counsel



would honour his undertaking in the instant proceedings regarding supply of the requisite Court fee etc., within two weeks from the date he is called upon to do so by the office.

(Madhuresh Prasad, J)

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