

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2090 of 2021**

Arising Out of PS. Case No.-441 Year-2020 Thana- GHOSI District- Jehanabad

BIRU KUMAR @ VIRU KUMAR S/O SHIV BAHADUR DAS R/o
village- Gulguliya, Makhdumpur, P.S.- Ghoshi, District- Jehanabad

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Vikash Kumar Pankaj, Advocate.
For the Respondent/s : Mr. APP.

**CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER**

2 30-07-2021 Let the defects be removed within four weeks of the
start of the physical Court.

Heard the parties in virtual Court.

This appeal is against the refusal of prayer for bail to the appellant by the learned Children Court, Jehanabad vide order dated 10.02.2021 passed in Children Case No. 1 of 2021 arising out of Ghosi P.S. Case No. 441 of 2020.

According to F.I.R. of the aforesaid case, 5 persons including the appellant allegedly assaulted and one of the five, pierced dagger into the abdomen of the informant, as a result whereof, the informant died subsequently.

The appellant was declared juvenile by the Juvenile Justice Board, Arwal vide order at Annexure-2 on the basis of date of birth recorded on the Registration Paper, Mark sheet and



Admit Card issued by the Bihar School Examination Board.

Submission of learned counsel for the appellant is that prayer for bail has been refused taking recourse to proviso to Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, though without any material to substantiate the same. The impugned order would reveal that the Court below has assumed that since the appellant is accused in a heinous crime, there is chances of his getting exposed to undesirous element.

The proviso to Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 reads as follows:

“A juvenile shall not be released if there appears reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical and psychological danger or his release would defeat the ends of justice.”

It is evident that for taking aid of the aforesaid proviso, the identity of the criminal should be known in whose association the appellant was likely to go. Furthermore, there is no material to substantiate that in the event of release, the appellant would be exposed to moral or psychological danger. The seriousness of the allegation cannot be a ground to refuse the prayer for bail of a juvenile as has been held by numerous



judicial pronouncements considering aim and objective of the Act which is a child beneficial act. Therefore the impugned order is set aside.

Let the appellant be released on giving an undertaking by either of the parents that the appellant would be kept in his / her proper care and shall fully cooperative with the enquiry / trial pending against the appellant.

Accordingly, this criminal appeal stands disposed of.

(Birendra Kumar, J)

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