

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3306 of 2021

Arising Out of PS. Case No.-336 Year-2020 Thana- SIDHWALIYA District- Gopalganj

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DHIRAJ KUMAR S/o LACHHU YADAV @ LADHHU YADAV R/o
VILLAGE-JALALPUR KHURD, P.S.-SIDHWALIA, DISTRICT-
GOPALGANJ, UNDER THE GUARDIANSHIP OF HIS FATHER SHRI
LACHHU YADAV @ LADHHU YADAV, S/o LATE RAMASHISH YADAV

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Rahul Kumar Singh, Adv

For the Respondent/s : Mr. Sujit Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 27-09-2021 Heard learned counsel for the appellant and

learned APP for the State.

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.

The appellant has preferred the present appeal
under Section 101(5) of the Juvenile Justice (Care and
Protection of Children) Act, 2015 against the refusal of his
prayer for bail, vide order dated 31.5.2021 passed by the
learned Additional District and Sessions Judge-I-cum-Special
Judge (Children's Court), Gopalganj arising out of Sidhwalia



P.S. Case No. 336 of 2020 instituted for the offence under Sections 341, 323, 324, 307, 302, 504 and 34 of the Indian Penal Code.

The allegation is that one co-accused Anil Yadav along with instant appellant and other has entered into the house of the informant and indiscriminately assaulted. Informant's daughter has been done to death by stab injuries.

Learned counsel for the appellant submits that from the entire prosecution case at best the appellant is alleged to be part of the unlawful assembly with no specific assault attributed against him. The actual position is that he has been declared juvenile on the date of occurrence. The attention of the Court is drawn toward the Social Investigation Report, copy of which has been annexed as "Annexure 2". Referring to the same, it is submitted that the report indicates that the appellant was leading a normal life, pursuing his studies and concentrating on his career. It is apparent from the report that the co-accused Anil Yadav is said to be having some kind of relation with deceased (juvenile). The said Anil Yadav was the appellant's neighbor and under such circumstance, he has been implicated.

Be that as it may, the report does not indicate



existence of any circumstance as contemplated under the Proviso to Section 12 of Juvenile Justice (Care and Protection of Children) Act, for arriving at a conclusion that upon his release, the appellant is likely to come in contact with known criminals or exposed to any physical, moral or psychological danger.

It is submitted by the appellant's counsel that the father and mother are willing and capable of taking care of appellant in the case of his release.

Learned APP has opposed the prayer for bail. The tone and tenor of the Social Investigation Report, however, cannot be denied from its contents. In the absence of any such exceptional circumstance, as contemplated under the Proviso to Section 12 of Juvenile Justice (Care and Protection of Children) Act, mandate of Section 12 is to release the juvenile on bail.

Having considered the rival submissions, social investigation report and statutory provision, this Court for the purposes of grant of bail is inclined to accept the submissions advance by the appellant's counsel. Let the appellant be released, at once, if not required in any other case, on giving undertaking by either of the parents that the appellant would be



kept in his/her proper care and upkeep and shall fully cooperative with the enquiry/trial pending against the appellant.

Accordingly, the Criminal Appeal stands allowed.

(Madhuresh Prasad, J)

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