

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3448 of 2021

Arising Out of PS. Case No.-80 Year-2020 Thana- PAKARIBARAW District- Nawada

Golu Kumar, aged about 18 years, presently(about 17 years 2 months at the time of occurrence) (male) Son of Late Sarvesh Singh Resident of Village-Dola, P.S.- Pakribarawan, District- Nawada being represented through his mother namely Vina Devi, W/o Late Sarvesh Singh, Resident of Village-Dola, P.S.- Pakribarawan, District- Nawada.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Vibhuti Ranjan Sonvadra, Adv.
For the Respondent/s : Mr. Zeyaul Hoda, APP

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

2 23-09-2021 In view of the sudden resurgence of Covid-19 infection, there is limited functioning of the High Court and, therefore, the matter has been listed today for consideration through virtual mode.

Heard learned counsel for the appellant and learned Additional Public Prosecutor (hereinafter referred to as the ‘APP) for the State.

This Court would expect that 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.

This is an appeal under Section 101(5) of the Juvenile



Justice (Care and Protection of Children) Act, 2015 (for brevity J.J. Act') against the refusal of prayer for bail by order dated 17.06.2021, passed by learned Additional District and Sessions Judge-1 Nawada, in connection with Pakribarawan P.S. Case No. 80 of 2020, registered under Sections 147,148,149, 323, 307, 302 and 188 of the Indian Penal Code.

Six named persons, including the instant appellant and 5-6 unknown persons have indiscriminately assaulted the informant and his father leading to death of the informant's father.

It is submitted by the appellant's counsel that postmortem report belies the allegation wherein only one lacerated wound has been found on the head of the victim. There is no specific allegation against the appellant. He is a juvenile and has been found to be 17 years 2 months of age at the time of the alleged occurrence. It is further submitted by the appellant's counsel that under such circumstances, the appellant, apart from the merits of the allegation, was also entitled to consideration of the fact that he was a juvenile in conflict with law and was covered by the mandate of Section 12 of the J. J. Act to the extent it mandates release of juvenile in conflict with law. The order, under appeal, does not take into consideration any material by



way of a Social Investigation Report even to suggest that there was any scope for him falling in the company of known criminals upon his release or that he was liable to suffer physical, moral or psychological danger. In absence of such circumstances, the instant appellant is entitled to grant of bail. It is also submitted that three co-accused who are adults, and facing similar allegations, namely, Sonu @ Chhotu Kumar, Madan Kumar and Ankit Singh have been allowed bail in Cr. Misc. No. 34724 of 2020. The appellant, on the other hand, is in custody since 10.07.2020.

The learned APP representing the State has opposed the prayer for bail. It is submitted that there is specific allegation against the appellant. In respect of the submissions based on the provisions of the J.J. Act he does not have any submission to oppose.

Considering the rival submissions and the period of incarceration, this Court for the purposes of grant of bail is inclined to accept the submissions advanced 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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