

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.409 of 2022

Arising Out of PS. Case No.-229 Year-2021 Thana- GUTHANI District- Siwan

AMAN TIWARI SON OF SANDEEP TIWARI R/O VILLAGE-
BABHANAULI, P.S.- MAIRWA, DIST.- SIWAN, UNDER THE
GUARDIANSHIP OF HIS FATHER SANDEEP TIWARI

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 587 of 2022

Arising Out of PS. Case No.-229 Year-2021 Thana- GUTHANI District- Siwan

MUKESH YADAV @ MUKESH KUMAR YADAV Son of Gautam Yadav @
Gautam Chaudhari Resident of Village - Bhaishakhal, Police Station - Ziradei,
District - Siwan, Under the guardianship of his mother Kanti Devi Wife of
Gautam Yadav @ Gautam Chaudhari

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 409 of 2022)

For the Appellant/s : Mr. Ajay Kumar Tiwary

For the Respondent/s : Mr. Zeyaul Hoda

(In CRIMINAL APPEAL (SJ) No. 587 of 2022)

For the Appellant/s : Mr. Ajay Kumar Tiwary

For the Respondent/s : Mr. Ram Anurag Singh

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA

ORAL ORDER

4 11-08-2022 Heard learned counsel for the appellants and learned
counsel appearing on behalf of the State.

Both the appeals are under Section 101(5) of the
Juvenile Justice (Care and Protection of Children) Act, 2015
against refusal of the prayer for bail to the appellants by order
dated 17.12.2022 passed by the Presiding Officer, 1st Additional
District and Sessions Judge-cum-Children Court, Siwan in Cr.

Appeal Nos. 40 of 2021 and 39 of 2021 respectively arising out of Guthani P.S. Case No. 229 of 2021 (J. Trial No. 362 of 2021).

On bare perusal of provision of Section 12 of the Juvenile Justice (Care and Protection and of Children) Act, 2015, it appears that Juvenile in conflict with law shall be released on bail unless 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 or psychological danger or that his release would defeat the ends of justice.

The impugned order mentions that it is not in the interest of appellants to be released on bail as there is a likelihood that if the appellants are released on bail, it would expose them to moral, physical and psychological danger and would also defeat the ends of justice.

The existence of the aforesaid grounds should not mean guesswork but it should be supported by some evidence on record such as report of the probation officer etc. The Children Court has not recorded any evidence in support of its finding. The report of the Probation Officer does not mention anything as contained in proviso to Section 12 of the said Act. The probation report contains that the appellants have got no

criminal antecedent. Regarding rehabilitation of the appellants, it mentions that the appellants need support, proper guidance and counseling by their parents.

As such, the rejection of the prayer for bail of the appellants is unjustified and against the intention of the provision of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Accordingly, the impugned order dated 17.12.2021 passed by the Presiding Officer, Children Court-cum-1st Additional District and Sessions Judge, Siwan in connection with Guthani P.S. Case No. 229 of 2021 is set aside.

Let the appellants, above named, be enlarged on bail on execution of surety bond by either of the parents of the appellants or in absence thereof, by his/her close relatives giving undertaking that they shall keep proper care and upkeep of the appellants and shall fully co-operate in the pending enquiry/trial.

Let the defects as pointed out by the office be removed within a period of four weeks from today.

(Arvind Srivastava, J)

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