

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.561 of 2022

Arising Out of PS. Case No.-156 Year-2021 Thana- KOTWA District- East Champaran

ABHISHEK KUMAR Son of Mahanand Yadav Resident of Village-
Ammapur, P.S.- Kotwa, District- East Champaran through his mother/
Guardian, namely Sona Devi, aged about 37 Years (F), Wife of Mahanand
Yadav, Resident of Village- Ammapur, P.S.- Kotwa, District- East Champaran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Abhishek Kumar, Adv.
For the Respondent/s : Mr.Binod Bihari Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

3 11-08-2022 Heard the parties.

This is an appeal under Section 101(5) of the Juvenile Justice (Care and Protection of Children) Act, 2015 against refusal of the prayer for bail to the appellant by order dated 22.12.2021 passed by 1st Additional Sessions Judge-cum-Special Judge, SC/ST, East Champaran at Motihari in connection with Children Trial No.21 of 2021 arising out of Kotwa P.S. Case No. 156 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 if the appellant will be released on bail then there is a chance to go of the appellant with the criminal associates.

The existence of the aforesaid ground 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 such 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 mentions that the mistake of the appellant has happened due to absence of proper care. The appellant has passed the Intermediate and he wants to study further. It suggests that the appellant needs proper care by his parents.

As such, the rejection of the prayer for bail of the appellant is unjustified and against the intention of the provision of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015. The same is, accordingly, set aside.

Let the appellant, above named, be enlarged on bail on execution of surety bond by either of the parents of the

appellant or in absence of parents, by his/her close relatives giving undertaking that they shall keep proper care and upkeep of the appellant 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.

(Arvind Srivastava, J)

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