

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.1879 of 2021**

Arising Out of PS. Case No.-158 Year-2019 Thana- RUNISAIDPUR District- Sitamarhi

Raushan Kumar @ Chhotu Son Of Vinay Kumar Singh @ Khobhari Singh  
Resident Of Village- Korlohiya Mansingh, P.S.- Mahindwara, District-  
Sitamarhi-843117

... .. Appellant

Versus

The State Of Bihar

... .. Respondent/s

**Appearance :**

For the Appellant/s : Mr.Subodh Kumar, Advocate  
For the Respondent/s : Mr. Syed Ashfaque Ahmad, APP

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH**  
**ORAL ORDER**

4      16-02-2022                      Due to the third wave of COVID-19 Pandemic, the  
matter is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading ‘For  
Orders’ under the orders of Hon’ble the Chief Justice.

Heard learned counsel for the appellant and learned  
APP for the State through virtual mode.

This criminal appeal has been preferred against the  
order dated 22.12.2020 passed by learned 1<sup>st</sup> Additional  
Sessions Judge-cum-Special Judge (Children Court), Sitamarhi  
whereby and whereunder the learned Special Judge has rejected  
the prayer for bail of the appellant in connection with  
Runnisaidpur P.S. Case No. 158/2019 registered for the  
offences under sections 302, 324 of the Indian Penal Code and



27 of the Arms Act.

The prosecution story, in brief is that the four unknown miscreants looted motorcycle of the informant on gun point.

It has been submitted on behalf of the appellant that the appellant is in custody since 17.05.2019 and has got no criminal antecedent. Charge-sheet has been submitted in the present case under Sections 394, 302 of the Indian Penal Code and Section 27 of the Arms Act. There is no allegation of tampering alleged against the appellant. The appellant is not named in the F.I.R.. Some of the co-accused were named in the F.I.R. merely on the basis of suspicion. Subsequently, in course of investigation, it has come that the mobile phone of the deceased was used by the brother of the appellant. Hence, the appellant has been made accused in the present case. There is no substantive evidence to suggest the implication of the appellant in the present case. There is no eye witness to the alleged occurrence nor there is any circumstantial evidence to suggest the participation of the appellant in the present case. Learned counsel for the appellant further submits that the father of the appellant is ready to furnish an undertaking that while on bail, he will not allow the appellant to associate with criminals or



anti-social elements. The appellant has relied upon the judgment of *Lalu Kumar and Ors. Vs. The State of Bihar (reported in 2019(4) PLJR 833)* where a Division Bench of this Court while considering the scope of Section 12 of the Juvenile Justice Act, 2015 in paragraph no. 84 of the judgment has observed the following:

“84. While interpreting Section 12, the Board is duty bound to be guided by the fundamental principles enumerated in Section 3 of the Act of 2015, specially the principles of ‘best interest’, ‘repatriation’ and ‘restoration’ of child. The fundamental principles in Section 3(xii) provides that a child shall be placed in institutional care as a step of last resort after making a reasonable inquiry. The gravity and nature of the offence are immaterial for consideration of bail under the Act of 2015. As per Section 12 of the Act of 2015, an application for bail is not decided by reference to classification of offences, as bailable or non-bailable under the Cr.P.C. All persons alleged to be in conflict with law and apparently a child when apprehended must be released except in the following three circumstances when there is reasonable ground for believing that:-

- (i) The release is likely to bring that person into association with any known criminal;
- (ii) The release is likely to expose the said person to moral or psychological danger; and
- (iii) The release would defeat the ends of justice.”

Learned A.P.P. for the State is present and has opposed the prayer for bail of the appellant.

Having regard to the facts and circumstances of the case, Social Investigation Report of the appellant was called for from the concerned Probation Officer. The Probation Officer in his report has reported that the appellant requires counselling.



Further the report does not reveal that there is any material to substantiate that in the event of grant of bail, the appellant is likely to go into association of known criminals or any anti-social elements.

The law requires that reasonable grounds should be there for believing that in the event of grant of bail, the appellant would go into association of any 'known criminal' or exposed to moral, physical and psychological danger or the release of the person would defect the ends of justice. There is no reference of any known criminal nor there is any other substantive material for the conclusion as recorded by the Court below.

Considering the facts and circumstances of the case as well as the findings of the Probation Officer in the Social Investigation Report of the appellant and the proposition of law as stated above, this criminal appeal is allowed and the order dated 22.12.2020 passed by learned 1<sup>st</sup> Additional Sessions Judge-cum-Special Judge (Children Court), Sitamarhi arising out of Runnisaidpur P.S. Case No. 158/2019, is set aside.

Let the appellant, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of his father on execution of surety bond of Rs. 10,000/-



(ten thousand) to the satisfaction of learned 1<sup>st</sup> Additional Sessions Judge-cum- Special Judge, (Children Court), Sitamarhi arising out of Runnisaidpur P.S. Case No. 158/2019 with the condition that the father of the appellant shall furnish an undertaking that while the appellant is on bail, he will not allow the appellant to come in company/association with any criminal or anti social elements that he will take proper care of the appellant. Further the appellant will be produced as and when required by the Court below and shall cooperate during the trial.

**(Sudhir Singh, J)**

Pankaj/-

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