

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.634 of 2022

Arising Out of PS. Case No.-180 Year-2021 Thana- RAJAON District- Banka

MITHUN KUMAR SON OF SURESH MANDAL UNDER
GUARDIANSHIP OF HIS MOTHER SULOCHANA DEVI, R/O
VILLAGE- LASHKARI, P.S.- RAJOUN, DISTRICT- BANKA

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ajay Mukherjee, 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 04.12.2021 passed by Additional Sessions Judge I-cum-Children Court, Banka in connection with B.P. No.1372 of 2021 arising out of G.R. No.1031 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 the appellant is likely to bring him in association with criminals and his release would 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 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 if the appellant gets proper guidance from his parents keeping in view the education awareness, he may become a good citizen. Therefore, the appellant may be released under the supervision of Probation Officer with certain conditions.

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 the mother of the appellant

giving undertaking that she 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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