

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.667 of 2022

Arising Out of PS. Case No.-18 Year-2021 Thana- BIBHUTIPUR District- Samastipur

GUDDU KUMAR Under the Guardianship of his father Sanjit Kumar @
Sanjit Mahto Son of Mishri Mahto Resident of Village- Dih Boria, P.S.-
Bibhutipur, District- Samastipur.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.Mritunjay Kumar, Adv.
For the Respondent/s	:	Mr.Prem Kumar Jha, APP Mr.Mrityunjay Kumar, Adv.

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, Child Court, Samastipur in connection with Bibhutipur P.S. Case No.18 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 is released on bail, there is a chance of the appellant going in association of criminals or it would also expose him to moral, physical and psychological danger or release of the appellant would defeat the ends of justice.

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 decision may be taken sympathetically keeping in view the appellant's first offence, his career prospects and positive attitude of his neighbours.

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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