

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.680 of 2022

In
CRIMINAL REVISION No.48 of 2022

Arising Out of PS. Case No.-91 Year-2016 Thana- BAISI District- Purnia

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KARANVIR SINGH S/o Sri Chandradev Singh @ Chandra Deo Singh R/o
Village - Bhadeyan Bhojpur, P.S.- Ara, District - Bhojpur.

... .. Appellant

Versus

The State Of Bihar

... .. Respondent

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Appearance :

For the Appellant/s : Mr.Nitya Nand Tiwary, Advocate

For the Respondent/s : Mr.Braj Kishore Pd.(App)

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

4 22-06-2022 Heard learned counsel for the appellant and learned
APP for the State.

This criminal appeal has been preferred against the judgment dated 20.03.2021 passed in Case No. 05 of 2020/CIS no. 05 of 2020 by learned 1st Additional Sessions Judge-cum-Special Judge, (Kishor), Purnea by which the learned Court below has rejected the prayer for bail of the appellant in connection with Bausi P.S. Case No. 91/2016 registered for the offences under section 20 of N.D.P.S. Act.

The prosecution story, in brief is that in a chase made by the police, 215 kg ganja was recovered in this case.

Earlier the bail application of the appellant was rejected by orders dated 20.02.2017 and 28.11.2018 passed in Cr. Misc. No. 42059 of 2016 and Cr. Misc. No. 51442 of 2018



respectively. Thereafter, the appellant took the plea of being juvenile on the alleged date of occurrence and by order dated 14.02.2020 passed by a Coordinate Bench of this Court in Cr. Rev. No. 106 of 2019, the appellant was declared to be a juvenile. Thereafter the appellant preferred an application for bail before Children's Court which got rejected by order dated 20.03.2021 passed in Special (Kishor) Case No. 05/2020/ CIS No. 05/2020. The said rejection was challenged in Cr. Rev. No. 48 of 2022 which was converted into criminal appeal by order dated 02.02.2022 which is the instant appeal.

It has been submitted on behalf of the appellant that the appellant is in custody since 21.06.2016 and has got no criminal antecedent. Charge-sheet has been submitted in the present case. There is no allegation of tampering alleged against the appellant. It is alleged that 215 kg of ganja was recovered in this case. There is no compliance of Sections 42 and 50 of the N.D.P.S. Act. 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 has cordial relation with his family members and he has never been involved any



time earlier in any criminal case. 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 defeat 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 judgment dated 20.03.2021 passed in Case No. 05 of 2020/CIS no. 05 of 2020 by learned 1st Additional Sessions Judge-cum-Special Judge, (Kishor), Purnea 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 1st Additional Sessions Judge-cum- Special Judge, (Kishor), Purnea in connection with Case No. 5 of 2020/CIS No. 5 of 2020 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)

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