

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.814 of 2022

Arising Out of PS. Case No.-116 Year-2020 Thana- DELHA District- Gaya

ANNA YADAV @ ANNA KUMAR @ ROHIT KUMAR Son of Late Dinesh
Yadav Resident of Village - Barki Delha, P.S. - Delha, District - Gaya.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Raja Ram Mishra, Adv.

For the Respondent/s : Mr.Sadanand Paswan, 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 04.01.2022 passed by Special Judge (Children Court), Gaya in connection with Cr.Appeal (Juvenile) No.78 of 2021 (C.I.S.) arising out of Delha P.S. Case No.116 of 2020.

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 every chance that he might be subjected to physical and psychological danger and his release would also defeat the ends of justice and he might be come in association of known criminal and the purpose of his reform would not take place and his release would also be against the appellant.

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 positive changes have been seen in the appellant after his mother was diagnosed with cancer. He keeps himself busy in the treatment of his mother. Therefore, the appellant may be released on the condition of stern warning with fine under the supervision of Probation Officer.

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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