

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.921 of 2022

Arising Out of PS. Case No.-149 Year-2021 Thana- MAIRWAN District- Siwan

ARYAN KUMAR @ A Son of Deepak Kumar Under the guardianship of his mother - Renu Gupta @ Renu Devi, Aged about 24 years, Gender - Female, Wife of Deepak Kumar, Resident of Village - Loharpatti, P.S.- Mairwa, District - Siwan, Bihar

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellants : Mr.Prashant Kumar, Advocate
For the Respondent : Mr.Binod Bihari Singh, APP

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 20-05-2022 Heard learned counsel for the appellant and the State through virtual mode.

Learned counsel for the appellant is directed to remove the defect(s), as pointed out by the office, within a period of four weeks.

The appellant has challenged the order dated 25-01-2022 passed by learned Ist Additional Sessions Judge-cum-Special Judge, Siwan whereby and whereunder the learned Ist Additional Sessions Judge-cum-Special Judge, Siwan has rejected the prayer for bail of the appellant in connection with Juvenile Enquiry No. 234 of 2021 arising out of Mairwa P.S. Case No. 149 of 2021 registered for the offences under Sections-302, 120B/34 of the Indian Penal Code.

Allegedly, the husband of the informant was killed by



unknown miscreants in the house located at Mairwa.

It has been submitted on behalf of the appellant that the appellant is in custody since 14-06-2021 and has got no criminal antecedent. There is no allegation of tampering of witnesses alleged against the appellant. The appellant has falsely been implicated in the present case. The appellant is not named in the FIR. His name has transpired in this case on the basis of confessional statement of the co-accused recorded under Section-161 of the Cr.P.C. The informant is not eye witness to the alleged occurrence. 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. He will take the appellant under strict guardianship and take proper care of him.

The appellant has relied upon the judgment of ***Lalu Kumar and Ors. Vs. The State of Bihar (reported in 2019(4) PLJR 833)***, wherein Division Bench of this Hon'ble Court has held as under:

“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 released 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 Spl. 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 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 persons would defeat the ends of justice. There is no reference of any known criminal nor there is any other subatantive material for the conclusion as recorded by the Court below.

Considering the facts and circumstances of the case, the findings of the Probation Officer in the Social Investigation Report of the appellant, the proposition of law as stated above and the period of custody undergone by the appellant, this criminal appeal is allowed and the order dated 25-01-2022 passed by learned Ist Additional Sessions Judge-cum-Special Judge, Siwan in connection with Juvenile Enquiry No. 234 of 2021 arising out of Mairwa P.S. Case No. 149 of 2021 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 Ist Additional Sessions Judge-cum-Special Judge, Siwan in connection with



Juvenile Enquiry No. 234 of 2021 arising out of Mairwa P.S. Case No. 149 of 2021 the condition that the father of the appellant shall furnish an undertaking that while the appellant is on bail, will not allow the appellant to come in company/association with any criminal or anti-social elements and he will take proper care of the appellant. Further the appellant will be produced as and when required by the Court below and shall co-operate during the trial.

(Sudhir Singh, J)

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