

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.939 of 2022

Arising Out of PS. Case No.-66 Year-2019 Thana- MAHILA P.S. District- Samastipur

KUNDAN KUMAR @ BUNJAN @ GUNJAN @ BUNJAN PASWAN S/o-
Ramu Paswan R/V- Sakhmohan, P.S. - Bibhutipur, District - Samastipur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ajay Kumar, Adv.

For the Respondent/s : Mr.Abhay Kumar, 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 08.09.2021 passed by Additional Sessions Judge 1st-cum-Children Court, Samastipur in connection with Mahila P.S. Case No.66 of 2019.

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 it seems proper to release the appellant for his bright future giving strict instructions to be kept under the protection of his family members.

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 they 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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