

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1052 of 2022

Arising Out of PS. Case No.-88 Year-2021 Thana- MAHILA P.S. District- Nalanda

PRIYANSHU KUMAR @ PRIYANSHU RAJ Son of Deepak Raut @
Deepak Kumar Resident of Village - Muftipur, Police Station- Bind, District -
Nalanda.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Rabindra Prasad Singh, Adv.
For the Respondent/s : Ms.Anita Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

3 18-08-2022 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 16.02.2022 passed by Additional Sessions Judge 1st, Nalanda at Biharsharif (Special Children Court) in connection with Children Case No.30 of 2021 arising out of Mahila P.S. Case No.88 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 the juvenile is enough mentally mature to understand the nature and consequences of his act and there is threat to his safety. On the other hand, charge has been framed and prosecution witnesses are being examined.

The existence of the aforesaid grounds 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 probation report shows that counseling of the child and his parents are required. Nothing has been mentioned as contained in Section 12 of the aforesaid Act.

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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