

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2195 of 2021**

Arising Out of PS. Case No.-322 Year-2016 Thana- JAMUI District- Jamui

MAHENDRA RAVIDAS, Male, aged about 23 years, Son of Mohan Ravidas,
Resident of Village - Minarang, P.S. and Distt.- Jamui.

... .. Appellant

Versus

The State of Bihar

... .. Respondent

Appearance :

For the Appellant : Mr. Pankaj Kumar Sinha, Advocate
For the Respondent : Mr. Abhay Kumar, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER**

3 10-02-2022 Due to the third wave of COVID-19 Pandemic, the
matter is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading ‘For
Orders’ under the orders of Hon’ble the Chief Justice.

Heard learned counsel for the appellant and learned
A.P.P. for the State through Virtual mode.

Learned counsel for the appellant is directed to
remove the defects, as pointed out by the office, within a period
of four weeks after restoration of normalcy.

This criminal appeal has been preferred against the
order dated 05.12.2019, whereby and whereunder the learned
Additional District and Sessions Judge-Ist-cum-Special Judge,
Jamui, has rejected the prayer for bail of the appellant in
connection with Sessions Trial No. 69(A)/2017, arising out of



Jamui P.S. Case No. 322/2016 (G.R. No. 1894/2016) registered for the offence under Sections 302/34 and 201 of the I.P.C.

The facts of the case, in brief, is that on 02.10.2016 at 12.00 O'clock, the son of the informant, namely, Sonu Kumar, went to any where from his home but he did not return. After search, the informant came to know that his son was killed by Mahendra Ravidas, Fakira Ravidas, Rakesh Ravidas, Dharmendra Ravidas and Mahendra Ravidas (appellant) concealed the dead body in a Iron box in his house. The informant went there and saw that the dead body of his son was in a pool of blood and kept in an Iron box in the house of the appellant and also found that his hands and legs were broken. The reason behind the occurrence was due to previous enmity and earlier several times assault took place between them.

It has been submitted on behalf of the appellant that the appellant is in custody since 03.10.2016. He has got no criminal antecedent. Charge has been framed in the present case. The appellant has falsely been implicated in the present case. As per prosecution case, the dead body of the deceased is said to have been recovered from the joint house of the appellant. Neither specific overt act is alleged against the appellant nor any specific allegation of assault is alleged against him. There is no



eye witness to the alleged occurrence. Learned counsel for the appellant submits that the mother of the appellant is ready to furnish an undertaking that while on bail, she 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.***

V. 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. It has been submitted that since the dead body of the deceased is recovered from the house of this appellant, the onus is on him to explain the cause of death of the deceased as per Section 106 of the Evidence Act. Learned A.P.P. for the State has further submitted that the release of the appellant would defeat the ends of justice.

Having regard to the facts and circumstances of the case, Social Investigation Report of the appellant was called for from the concerned Probation Officer by order dated 26.11.2021. The Probation Officer in his report has reported that the appellant is in Remand Home and according to neighbours of the appellant, the appellant and the deceased were in friendship from before. The appellant is a good student. They also said that the occurrence might have taken place due to previous enmity. The Probation Officer further recommended that considering the economical position, education and future of the appellant, he may be given benefit of Juvenile Justice (Care and Protection of Children) Act, 2015.



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.

Hence, the impugned order suffers from failure to exercise jurisdiction vested in law, is result of error apparent on the face of the record and non-consideration of provisions of law. Accordingly, this criminal appeal is allowed and the order dated 05.12.2019, passed by learned Additional District and Sessions Judge-Ist-cum-Special Judge, Jamui, in Sessions Trial No. 69(A)/2017, arising out of Jamui P.S. Case No. 322/2016 (G.R. No. 1894/2016), is set aside.

Let the appellant, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of his mother on execution of surety bond of Rs. 10,000/- (Rupees Ten Thousand Only), to the satisfaction of learned A.D.J.-Ist-cum-Special Judge, Jamui, in connection with Sessions Trial No. 69 (A)/2017, arising out of Jamui P.S. Case No. 322/2016 (G.R. No. 1894/2016), with the condition that, the mother of the



appellant shall furnish an undertaking that while the appellant is on bail, she will not allow the appellant to come in company/association with any criminal or anti-social element and that she 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 in the trial.

(Sudhir Singh, J)

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