

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1743 of 2022

Arising Out of PS. Case No.-35 Year-2018 Thana- KHUSRUPUR District- Patna

MD. GULFAN @ MD. GULFAM @ MD. AFJAL S/o Md. Riyasat Resident
of Hardas Bigha, P.S.- Khusrupur, District- Patna

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr.N.K. Agrawal, Sr. Advocate with Mr.Vijay Anand, Adv.
For the Respondent/s	:	Mrs.Abha Singh, APP

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

4 01-11-2022 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 29.04.2022 passed by Special Judge, Children Court, Patna in connection with Special Case No.03 of 2022.

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 juvenile (appellant) is released on bail, there is a chance of the appellant going in association of criminals which 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 one Roushan Kumar is alleged to have fired on Bablu Paswan (deceased) due to which Bablu Paswan died. It also mentions that there does not appear to be direct involvement of the juvenile (appellant) in the alleged crime. The report suggests that keeping in view the social conduct of the appellant, he may be considered under the said 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 the mother of the appellant giving undertaking that she 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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