

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2392 of 2022

Arising Out of PS. Case No.-204 Year-2020 Thana- PATAHI District- East Champaran

SAHBAJ @ SALU @ SAHBAJ ALAM SON OF SHAUKAT ALI R/O
VILLAGE- CHAINPUR, P.S.- PATAHI, DISTRICT- EAST CHAMPARAN

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Anisur Rahman
For the Respondent/s : Mr.Bipin Kumar

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

3 29-09-2022 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 25.04.2022 passed by Additional Sessions Judge-cum-Children's Court, East Champaran, Motihari in connection with Children Case No.02 of 2022/C.I.S. No.02 of 2022 arising out of Patahi P.S. Case No.204 of 2020.

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 there is a chance of bringing the appellant into bad association with criminals and he may be exposed to moral, physical and psychological danger and his release 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 suggests that during social investigation, the neighbours and the mother of the appellant informed that the appellant is a student of Polytechnic 2nd Year, Bijnor, Uttar Pradesh and he has interest in study. In this regard, a decision can be taken for his rehabilitation.

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 his maternal uncle (*mausa*) giving undertaking that he shall keep proper care and upkeep of the appellant and shall fully co-operate in the pending enquiry/trial.

Put up this case on 05.01.2023. On that date, the learned counsel for the appellant is directed to file an affidavit with regard to sending of the appellant to Bijnor, Uttar Pradesh for his education.

(Arvind Srivastava, J)

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