

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2496 of 2022

Arising Out of PS. Case No.-105 Year-2021 Thana- SANHAULA District- Bhagalpur

MD. MERAJ Son of Md. Nayeemuddin Resident of village - Chammachak,
P.S.- Goradih, District – Bhagalpur under the care and guardianship of his
father namely Md. Nayeemuddin aged about 53 years S/o Jahir, R/o Vill.
Champachak, P.S. Goradih, Dist. Bhagalpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Md. Najmul Hodda
For the Respondent/s : Mr. Choubey Jawahar

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

6 08-12-2022 Heard learned counsel for the appellant and
learned counsel appearing on behalf of the State.

This is an appeal under Section 101(5) of the
Juvenile Justice (Care and Protection of Children) Act, 2015
filed against the order dated 21.06.2022 passed by the learned
1st Additional Sessions Judge-cum-Special Judge, (Children
Court), Bhagalpur in connection with Special Case (Children)
No. 10 of 2022 arising out of Sanhaula P.S. Case No. 105 of
2011.

The impugned order mentions that if the
appellant is released on bail, there is likelihood of physical
and psychological danger to the child.

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 evidence in support of its finding.

The Social Investigation Report suggests that there seems to be a need for proper counseling of the child and his parents so that in future the activities of the child and his friends can be specially monitored. Further it mentions that the appellant has no criminal antecedent. In such circumstances, the appellant may be ordered to do some social work for some period so that he may learn about the social values.

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. Accordingly, the impugned order dated 21.06.2022 passed by the 1st Additional Sessions Judge-cum-Special Judge (Children Court), Bhagalpur in connection with Special Case (children) No. 10 of 2022 arising out of Sanhaua P.S. Case No. 105 of 2021 is set aside.

Under the aforementioned circumstances, this Court is of the opinion that the appellant should be released



on bail with some conditions. Accordingly, the appellant, above named, is directed to be enlarged on bail on following terms and conditions:-

(i) The natural guardian of the appellant shall execute a surety bond giving undertaking that upon release on bail the appellant will not be permitted to come into contact or association with any known criminal or allowed to be exposed to any moral, physical or psychological danger and further that the natural guardian will ensure that the appellant will not repeat the offence;

(ii) The District Probation Officer will keep strict vigil on the activities of the appellant and regularly draw up his social investigation report that would be submitted to the Juvenile Justice Board on such periodical basis as the Juvenile Justice Board may determine; and

(iii) The appellant shall fully co-operate in the pending inquiry/trial.

(Arvind Srivastava, J)

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