

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3689 of 2021**

Arising Out of PS. Case No.-634 Year-2020 Thana- SONEPUR District- Saran

VISHWAJIT KUMAR Son of Ramji Ray Resident of Village - Jahangirpur
P.S. - Sonpur, District - Saran, Minor Under the Guardianship of His father
Ramji Ray, S/O Late Yogendra Ray, Resident of Village - Jahangirpur, P.S. -
Sonpur, District - Saran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Surendra Kumar Singh

For the Respondent/s : Mr.Syed Ashfaque Ahmad

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER**

3. 27-04-2022 Heard learned counsel for the parties.

2. The present memo of appeal has been filed on behalf of appellant against the order dated 19.01.2021 passed by learned 1st Additional Sessions Judge-cum-Special Judge, Children Court, Saran at Chapra in connection with Children Court (Special) Case No. 01 of 2021, arising out of Sonpur (Hariharnath O.P.) P.S. Case No. 634 of 2020 registered for the offence punishable under Sections 302/120B/34 of the Indian Penal Code and Section 27 of the Arms Act, whereby the prayer for bail of the appellant was rejected.

3. As per the prosecution case, on 22.08.2020 at about 11:30 P.M., the son of informant was called by the appellant and thereafter, son of the informant proceeded on his motorcycle,



but did not return and on the next morning, the dead-body of his son was found in the park behind *Shishu Sangh School, Railway Colony*. The informant has alleged that this appellant alongwith other co-accused persons have committed the murder of his son.

4. It is submitted on behalf of the appellant that admittedly, the appellant has been declared juvenile on 16.09.2020 by the Juvenile Justice Board, but his prayer for bail was rejected by the court below considering the merit and gravity of offence, whereas, once appellant has been declared juvenile, his case was required to be considered in the light of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as the 'J.J.Act'). Appellant is having clean antecedent and he is in custody since 25.08.2020.

5. However, learned A.P.P. for the State opposed the prayer for bail.

6. Perusal of impugned order does not reveal that the case of the appellant is covered by the proviso of Section 12 of the J.J.Act. The prayer for bail of the appellant has been rejected considering the merit of the case, which is against the statutory mandate and unsustainable in the eye of law.



7. The Social Investigation Report is also vague and contradictory in nature. It does not disclose the identity of the known criminals in whose company the appellant is likely to go if released on bail.

8. Considering the aforesaid facts and circumstances as well as the position of law as stated above, the impugned order is set aside and this criminal appeal is allowed.

9. Accordingly, let the appellant, as named above, be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned 1st Additional Sessions Judge-cum-Special Judge, Children Court, Saran at Chapra in connection with Children Court (Special) Case No. 01 of 2021, arising out of Sonpur (Hariharnath O.P.) P.S. Case No. 634 of 2020.

(Prabhat Kumar Singh, J)

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