

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2860 of 2022**

Arising Out of PS. Case No.-5 Year-2022 Thana- BARGAINIA District- Sitamarhi

X (CHILD IN CONFLICT WITH LAW) Son of Rudra Chauhan @ Rudra Singh Chauhan R/V- Dalpat Ward no. 10 Vishunpur, PS- Dhaka, Dist- East Champaran, through its guardian and mother namely, Rima Singh @ Rima Singh Chauhan, aged about 34 years, Wife of Rudra Chauhan @ Rudra Singh Chauhan resident of Village- Dalpat Vishunpur, Ward no. 10, P.S- Dhaka, Dist- East Champaran

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Vikash Kumar Jha
For the Respondent/s : Mr.Syed Ashfaque Ahmad

**CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER**

3 20-10-2022 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 06.06.2022 passed by Additional Sessions Judge-cum-Special Judge (Children's Court), Sitamarhi in connection with Bairgania P.S. Case No.05 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.

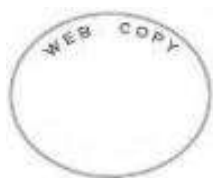
The impugned order mentions that his release may defeat the ends of justice and the atmosphere outside the place of safety is not safe for him and if he is released on bail, it would expose him to moral, physical and psychological danger.

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 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.

Further the probation report mentions that there is a lack of proper guardianship. It suggests that the appellant may be kept under the supervision of Probation Officer for his bright future and positive change in his behaviour.

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.

(Arvind Srivastava, J)

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