

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4594 of 2021

Arising Out of PS. Case No.-53 Year-2019 Thana- BAJPATTI District- Sitamarhi

=====

XXX (CHILD IN CONFLICT WITH LAW) Son of Late Md. Masliuddin
Resident of Village - Rudauli, P.S.- Bajpatti, Distt.- Sitamarhi through his
Guardian and Mother namely, Rchana Khatoon aged about 54 Years, Wife of
late Md. Masliuddin, Resident of Rudauli, Ward no.10, P.S.- Bajpatti, Dist.-
Sitamarhi.

... .. Appellant

Versus

The State Of Bihar

... .. Respondent

=====

Appearance :

For the Appellant/s : Mr.Ashhar Mustafa, Advocate
For the Respondent/s : Mr.Bipin Kumar, APP

=====

CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

3 01-02-2022 Due to the third wave of COVID-19 Pandemic, the

matter is being taken up by way of Virtual Court proceeding.

The matter has been listed under the heading ‘For
Orders’ under the orders of Hon’ble the Chief Justice.

Heard learned counsel for the appellant and learned
APP for the State through virtual mode.

This Criminal appeal has been preferred against the
order dated 20.09.2021 passed by learned Additional Sessions
Judge-cum- Special Judge (Children’s Court), Sitamarhi by
which the learned Court below has rejected the prayer for grant
of bail of the appellant in connection with Bajpatti P.S. Case No.
53/19 registered for the offences under Sections 147, 341, 323,



324, 447, 379, 307, 326A, 354B and 506 IPC.

The prosecution story, in brief is that the accused persons entered into the house and assaulted the informant and family members due to which granddaughter of the informant sustained injuries. The accused persons also misbehaved with the members of the informant.

It has been submitted on behalf of the appellant that the appellant is in custody since 30.06.2021. Charge-sheet has been submitted in the present case. There is no allegation of tampering alleged against the appellant. The appellant has falsely been implicated in the present case. No specific overt act is alleged against the appellant. Specific allegation of assault is on co-accused Mustaque and allegation of throwing acid is on Rijwana Khatoon. As per the prosecution case, the appellant is said to be member of the unlawful assembly. Other co-accused persons have been granted bail by different co-ordinate Benches of this Court vide Annexure-4 series. Learned counsel for the appellant further submits that the mother of the appellant is ready to furnish an undertaking that while on bail, she will not allow the appellant to associate with criminals or anti-social elements. The appellant has relied upon the judgment of ***Lalu Kumar and Ors. Vs. The State of Bihar (reported in 2019(4)***



PLJR 833) where a Division Bench of this Court while considering the scope of Section 12 of the Juvenile Justice Act, 2015 in paragraph no. 84 of the judgment has observed the following:

“84. While interpreting Section 12, the Board is duty bound to be guided by the fundamental principles enumerated in Section 3 of the Act of 2015, specially the principles of ‘best interest’, ‘repatriation’ and ‘restoration’ of child. The fundamental principles in Section 3(xii) provides that a child shall be placed in institutional care as a step of last resort after making a reasonable inquiry. The gravity and nature of the offence are immaterial for consideration of bail under the Act of 2015. As per Section 12 of the Act of 2015, an application for bail is not decided by reference to classification of offences, as bailable or non-bailable under the Cr.P.c. All persons alleged to be in conflict with law and apparently a child when apprehended must be released except in the following three circumstances when there is reasonable ground for believing that:-

- (i) The release is likely to bring that person into association with any known criminal;
- (ii) The release is likely to expose the said person to moral or psychological danger; and
- (iii) The release would defeat the ends of justice.”

Learned A.P.P. for the State is present and has opposed the prayer for bail of the appellant.

Having regard to the facts and circumstances of the case, Social Investigation Report of the appellant was called for from the concerned Probation Officer. The Probation Officer in his report has reported that the appellant bears good character



and wants to pursue his study of intermediate course. The report further suggests that the appellant requires cooperation, training according to his ability, counselling and the guidance and care of the family. Further the report does not reveal that there is any material to substantiate that in the event of grant of bail, the petitioner is likely to go into association of known criminals or anti social elements.

The law requires that reasonable grounds should be there for believing that in the event of grant of bail, the appellant would go into association of any 'known criminal' or exposed to moral, physical and psychological danger or the release of the person would defect the ends of justice. There is no reference of any known criminal nor there is any other substantive material for the conclusion as recorded by the Court below.

Considering the facts and circumstances of the case as well as the findings of the Probation Officer in the Social Investigation Report of the appellant and the proposition of law as stated above, this criminal appeal is allowed and the order dated 20.09.2021 passed by learned Special Judge (Children Court), Sitamarhi in Bajpatti P.S. Case No. 53/2019, is set aside.



Let the appellant, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of his mother on execution of surety bond of Rs. 10,000/- (ten thousand) to the satisfaction of learned Special Judge (Children Court), Sitamarhi in Bajpatti P.S. Case No. 53/2019 with the condition that the mother of the appellant shall furnish an undertaking that while the appellant is on bail, she will not allow the appellant to come in company/association with any criminal or anti social elements that she will take proper care of the appellant. Further the appellant will be produced as and when required by the Court below and shall cooperate during the trial.

(Sudhir Singh, J)

Pankaj/-

U		T	
---	--	---	--

