

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.305 of 2023

Arising Out of PS. Case No.-108 Year-2020 Thana- BHAGWAN BAZAR District- Saran

1. JHEETHU PRASAD @ VIVEK KUMAR @ JHITU PRASAD S/O SURENDRA PRASAD Resident of village- Bara Gopal, P.S.- Awatarnagar, District- Saran at Chapra.
2. VISHAL PRASAD @ VISHAL KUMAR S/O ANIL PRASAD Resident of village- Rajendra college, Bahari Sadak, Narayanpur Colony, P.S.- Bhagwan Bazar, District- Saran at Chapra.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Dewendra Narayan Singh, Adv.
For the Respondent/s : Mr. Ramchandra Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

5 22-08-2023

1. Heard both the parties.

2. 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 appellants by order dated 24.11.2022 passed by 1st Additional Sessions Judge-cum Special Judge, Children's Court, Saran at Chapra in connection with Bhagwan Bazar P.S. Case No.108 of 2020.

3. 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.

4. The impugned order mentions that if the appellants are released on bail, there is a chance of the appellants going in association of criminals or it would also expose them to moral, physical and psychological danger or release of the appellants would defeat the ends of justice.

5. 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.

6. The probation report in respect of appellant no. 2 clearly mentions that bringing the appellant in the mainstream of the society will not be appropriate and he should still be kept in remand home.

7. However, in respect of appellant no. 1 the probation report mentions that it seems proper to release the appellant for his bright future.



8. Let the appellant no. 1, namely, Jheethu Prasad @ Vivek Kumar @ Jhitu Prasad, be enlarged on bail on execution of surety bond by either of the parents of the appellant or in absence thereof, by his/her close relative giving undertaking that he/she shall keep proper care and upkeep of the appellant and shall fully co-operate in the pending enquiry/trial.

9. Considering the submissions made on behalf of the parties and the material available on record specially the probation report this Court is not inclined to grant the privilege of bail to the appellant no. 2, namely, Vishal Prasad @ Vishal Kumar. The prayer for bail of the appellant is, accordingly, rejected.

10. The appeal stands disposed of.

(Arvind Srivastava, J)

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