

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.361 of 2023

In
CRIMINAL REVISION No.461 of 2022

Arising Out of PS. Case No.-361 Year-2020 Thana- KATEYA District- Gopalganj

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ABHISHEK CHAUBEY Son of Ganesh Chaubey Under guardianship of
Smt. Nibha Devi W/o Ganesh Chaubey , R/V- Barehi Belwa (Belawa Barahi)
PS- Kateya Dist- Gopalganj

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Satyendra Rai

For the Respondent/s : Mr.Nand Kishore Prasad

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

7 17-03-2023 Heard learned counsel for the appellant and learned
APP for the State.

The present appeal has been filed against the order dated 18.12.2021 passed by learned Additional District and Sessions Judge-1st cum Special Justice (Juvenile Court), Gopalganj arising out of Kateya P.S. Case No. 361 of 2020 registered under Section 376(D) of Indian Penal Code, whereby and whereunder the prayer for bail of the appellant was rejected.

As per prosecution case, there is allegation against the present appellant(juvenile) and others to commit rape upon the informant(victim).

Learned counsel for the appellant(juvenile) submits



that according to para 3 of the memo of appeal the appellant bears no criminal antecedent, meaning thereby the appellant is not associated with any known criminal organization. He further submits that medical report does not support the allegation made in the prosecution story and the prosecution story is also not consistent with statement of victim recorded under Section 164 of Cr.P.C. He further submits that there is land dispute between the present appellant(juvenile) and opposite party who is represented by none else than informant herself. He further submits that appellant is in judicial custody since 17.09.2021. He further submits that vide order dated 24.09.2021, the learned Juvenile Justice Board declared the appellant as a child in conflict with law (juvenile) and assessed his age 17 years, 9 months and 19 days. Learned counsel for the appellant (juvenile) submits that mother of the appellant (juvenile) undertakes that she will take the responsibility of the appellant.

Learned A.P.P for the State vehemently opposes the prayer of bail of the appellant.

As per statute, the bail application of a child in conflict with law is not to be considered on the merit of the case or nature of allegation or gravity of the offence, rather in terms of Section 12 of the Juvenile Justice (Care and Protection of Chil-



dren) Act,2015.

In view of aforesaid facts and circumstances as well as position of law as stated above, impugned order dated 18.12.2021 is hereby set aside and the appeal is allowed.

Accordingly, the above-named appellant is directed to 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 learned Additional District and Sessions Judge-1st cum Special Judge (Juvenile Court), Gopalganj in connection with Kateya P.S. Case No. 361 of 2020, subject to condition that one of the bailors will be mother of the appellant who will file an affidavit giving an undertaking to the effect that she will take proper care of good behaviour and child's (appellant's) well being and will not allow him to go in the company of bad elements.

Accordingly, the instant appeal stands disposed of.

(Alok Kumar Pandey, J)

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