

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.604 of 2023

Arising Out of PS. Case No.-232 Year-2022 Thana- BAIRIYA District- West Champaran

XXXX, Son of Suresh Sah Resident of Village- Bagahi, Baghambarpur, P.S.- Srinagar (Pujaha), District- West Champaran. Through his father being legal guardian namely- Suresh Sah, aged about 50 years, Male, S/O Heeralal Sah, Village- Bagahi, Baghambarpur, P.S.- Srinagar (Pujaha), District- West Champaran

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Bimlesh Kumar Pandey, Adv.
For the Respondent/s : Mr. Ramchandra Singh, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 05-09-2023 1. Heard learned counsel for the Appellant and learned APP for the State.

2. The instant appeal has been preferred against the order dated 14.12.2022 passed by the Court of learned Additional District & Sessions Judge 1st-cum-Children's Court, West Champaran at Bettiah in connection with Special Case No. 17 of 2022 arising out of Bairiya P.S. Case No. 232 of 2022 registered for the offence(s) punishable under Section(s) 341, 323, 324, 307, 302, 120(B) read with Section 34 of the Indian Penal Code whereby and whereunder the prayer for bail made by the appellant has been rejected.

3. In respect of prayer for bail made by the appellant



under Section 101(5) of Juvenile Justice (Care and Protection of Children) Act, it is submitted by learned counsel for the appellant that the appellant has been declared as being Juvenile (Child) on the alleged date of occurrence and in this regard Juvenile Justice Board Bettiah declared his age as 17 years 05 months 20 days on the day of alleged occurrence and accordingly, the appellant has been declared as a juvenile thereafter his matter was referred to Children's Court for trial, where the appellant made prayer for bail and his prayer has been rejected mainly considering the seriousness and gravity of the offence which is against the principles laid down by Hon'ble Division Bench of this Court in the case of ***Lalu Kumar v. State of Bihar Reported in 2019, PLJR Vol-4 Page 833***. Learned counsel for the appellant has referred the paragraph No. 87 of the said judgment which is being reproduced herein below:-

“87. Our irresistible conclusion, on dealing with the provisions prescribed under Section 12 of the Act of 2015, to answer the fourth question “Whether seriousness of the offence alleged is a ground for rejecting the bail in case of a child in conflict with law ?” is, thus, plain and simple. Seriousness of the offence alleged cannot be made a ground for rejecting bail in case of a child in conflict



with law.”

Further submission is that at the time of deciding the bail prayer of the appellant, before the Trial Court, Social Investigation Report concerned to the appellant was not available despite that learned Trial Court rejected the bail prayer of the appellant in mechanical manner and the appellant has been languishing in Observation Home since 13.08.2022 and he has completed about one year in protective custody that is sufficient to keep him under observation. Further submissions are that the appellant has fair and clean antecedent and having good moral character and in actual the informant attacked his own uncle Anil Miyan with dagger and during scuffling the informant himself sustained injuries and thereafter the appellant was falsely roped in the present matter.

4. Learned APP appearing for the State has opposed the prayer for bail of the appellant and submitted that in view of the statement made by the father of the injured a serious allegation appears against the appellant and he caused dagger injuries to two persons out of whom one died at the spot and he repeatedly caused the said injuries to the said persons and considering the seriousness of the allegation the Juvenile Justice Board referred appellant's case for trial to the Children's Court.

5. Heard both the sides and perused the order



impugned and Social Investigation Report concerned to the appellant. In view of the principles laid down by the Hon'ble Division Bench of this Court referred above the gravity and seriousness of the offence cannot be made a ground to reject the bail prayer of a child who is in conflict with law. Though, in the present matter against the appellant, there is serious allegation but he has spent about one year in protective custody at Observation Home and the Social Investigation Report concerned to him does not go against him and except the present matter, there is no other case against him and his family and the alleged occurrence was a result of miss-behaving and teasing with the appellant's sister, committed by the victims and in the family of the appellant there are sufficient major family members who can take care of the appellant after his release from Observation Home.

6. Considering the above facts, I find the order impugned to be not proper hence, the same is set aside and the instant appeal stands allowed. Accordingly, let the appellant named-above be enlarged on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional District & Sessions Judge 1st-cum-Children's Court, West Champaran at



Bettiah, in connection with Special Case No. 17 of 2022 arising out of Bairiya P.S. Case No. 232 of 2022 on the following conditions:-

(i) One of the Bailors shall be the father of the appellant.

(ii) Trial Court shall call for a report regarding the conduct of the appellant from the Probation Officer after the gap of every six months during the trial, if, any adverse to the conduct of the appellant is found then the Trial Court shall take serious action against him by canceling his bail bond.

(Shailendra Singh, J.)

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