

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.787 of 2023

Arising Out of PS. Case No.-153 Year-2022 Thana- BUXAR MUFFSIL District- Buxar

XXXXX Son of XXXXXXXXXX Resident of village - Jagdishpur, P.S.- Buxar (M), District - Buxar. Under the guardianship of Sinu Kumar Singh, Aged about 47 years, Male S/o Lakshman Singh, Resident of Village - Jagdishpur, P.S.- Buxar (M), District - Buxar, Who is father of the appellant.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Raghwendra Pratap Singh, Adv.
For the Respondent/s : Mr.Anand Mohan Prasad Mehta, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 05-10-2023 1. Heard learned counsel for the appellant and learned APP for the State.

2. The instant appeal has been filed under Section 101(5) of Juvenile Justice (Care and Protection of Children) Act, 2015 against the order dated 06.12.2022 passed by learned Additional Sessions Judge 1st-cum-Special Judge, (SC/ST & Children's Court), Buxar in connection with Child case No. 15 of 2022, arising out of Buxar (Muffasil) P.S. Case No. 153 of 2022 registered for the offences punishable under Section 302/34 of the IPC and under Section 27 of Arms Act whereby the prayer for bail made by the appellant has been rejected.

3. The main submissions advanced by learned counsel for the appellant are that the appellant has fair and clean



antecedent, he has been declared juvenile and on the date of alleged occurrence, his age was 16 years and eight months and he is not named in the FIR and as per FIR, main allegation of causing fire-arm injury to the informant is against co-accused Sangram Yadav, Halchal Yadav and Bateshwar Yadav, though several persons were named in the FIR but the name of appellant did not find place in the FIR and during the course of investigation name of the appellant surfaced in the case in the confessional statement of co-accused Sangram Yadav and according to the said confessional statement, the appellant simply helped the accused in the process of reki and except that there is no other serious allegation against the appellant . Further submissions are that appellant's mother is ready to take care of the appellant if he is released from the remand home and the appellant has been in observation home since 28.04.2022 and he has not remained involved earlier in similar type of offences.

4. Learned APP appearing for the State has opposed the prayer for bail of the appellant.

5. Considering the above submissions and mainly taking into account the nature of allegation appearing against the appellant and also the facts that the appellant is not named in



the FIR and his name came into light during investigation in the confessional statement of co-accused and main allegation of firing at the deceased is against three other accused persons and the appellant has fair and clean antecedent, though there are criminal antecedents against father and brother of the appellant but his mother is ready to file undertaking to take care of the appellant if he is released from the remand home and moreover the appellant has been sufficiently remained in protective custody, in my opinion, the appellant deserves to be released from the observation home. Accordingly, let the appellant named-above be released 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 Sessions Judge 1st-cum-Special Judge (SC /ST & Children's Court), Buxar in connection with Child case No. 15 of 2022, arising out of Buxar Muffasil P.S. Case No. 153 of 2022, on the following conditions;-

(i) The appellant's mother shall file written undertaking before the trial court at the time of furnishing bail bond that she will take care of the appellant after his release from the observation home during the pendency of trial and the trial court shall call for progress report regarding the



development of the appellant particularly with regard to his educational development after a gap of every six months during the period of trial and if any adverse development of the appellant or appellant's involvement in further criminal activity is found then the trial court shall take serious action against the appellant by taking him into custody.

(ii) If the appellant affects or prejudice any witness of the prosecution or any evidence concerned to the alleged offence during his trial then also the trial court shall take serious action against the appellant by taking him into custody.

6. In the result, the instant appeal stands allowed and the order impugned is hereby set aside.

(Shailendra Singh, J)

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