

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1385 of 2023

Arising Out of PS. Case No.-758 Year-2019 Thana- FORBESGANJ District- Araria

1. CHHOTU KUMAR Son of Giranand Das @ Giro Das Resident of Village - Pokharbasti, P.S.- Forbesganj, District - Araria., Under guardianship of father Giranand Das @ Giro Das, Male, Age 52 Years, S/O Zbasu Das
2. Pankaj Kumar Son of Kartik Das Under guardianship of father Kartik Das, Male, Age 57 Years, S/O Achinlal Das, Resident of Village - Mirganj, P.S.- Jogbani, District - Araria.
3. Krishna @ Krishan Kumar @ Krishna Kumar Das Son of Khoku Das @ Shyamdeo Das Under guardianship of Mother Lila Devi, Female, Age 48 Years, W/O Khoku Das @ Shyamdeo Das, Resident of Village - Mirganj, P.S.- Jogbani, District - Araria.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Anil Prasad Singh

For the Respondent/s : Mr.Anand Mohan Prasad Mehta

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL ORDER

5 03-05-2023 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 06.02.2020 passed by 1st Additional Sessions Judge -cum- Special Judge, Araria in connection with Special (Child) Case No.01 of 2020 corresponding to Spl.(POCSO) Case No.46 of 2019 arising out of Forbesganj (Simraha) P.S. Case No.758 of 2019.

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.

The impugned order mentions that considering the active participation of the adolescent appellants in the alleged occurrence of rape and murder of an innocent minor girl, the court did not think it proper to release the appellants on bail. But the court below has not recorded the reasons as contained in Section 12 of the aforesaid Act.

From perusal of the probation report also, it appears that nothing has been mentioned as provided under Section 12 of the said Act. The probation report mentions that during course of counselling the appellants appeared to be calm and they deserve the understanding of consequences of the alleged occurrence. The appellants are in need of proper education and supervision as well as proper guidance from time to time.

As such, the rejection of the prayer for bail of the appellants is unjustified and against the intention of the provision of Section 12 of the Juvenile Justice (Care and



Protection of Children) Act, 2015. The same is, accordingly, set aside.

Let the appellants, above named, be enlarged on bail on execution of surety bonds by their fathers giving undertakings that they shall keep proper care and upkeep of the appellants and they shall fully co-operate in the pending enquiry/trial.

(Arvind Srivastava, J)

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