

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1508 of 2023**

Arising Out of PS. Case No.-779 Year-2022 Thana- GOPALGANJ TOWN District-
Gopalganj

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1. XXXX S/O Jata Chaudhari @ Gata Chaudhari @ Jawahar Yadav Under The Guardianship Of Smt. Anita Devi, Aged About 36 Years, Female, Wife Of Jata Chaudhari @ Gata Chaudhari @ Jawahar Yadav R/O Village- Tirvirwan, P.S- Gopalganj Town, Distt.- Gopalganj.
 2. XXXX S/O Nagendra Yadav @ Nagendra Chaudhari Under Guardianship Of Smt. Gayatri Devi Aged About 38 Year, Female, Wife Of Nagendra Yadav @ Nagendra Chaudhari, R/O Village- Tirvirwan, P.S- Gopalganj Town, Distt.- Gopalganj.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Shekhar Singh, Adv. Mr. Sumit Kumar, Adv. Mr. Avinash Kumar Singh, Adv.
For the State	:	Mr. Mukeshwar Dayal, APP
For the Informant/s	:	Mr. Md.Sufyan, Adv. Mr. Pratyush, Adv.

**CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER**

4 03-11-2023

1. Heard learned counsel for the Appellants,
learned counsel for the informant and learned APP for the State.

2. The instant appeal has been filed under Section 101(5) of the Juvenile Justice (Care and Protection of Children) Act, 2015 against the order dated 15.02.2023 passed by the Court of learned Addl. District and Sessions Judge- 1st -cum- Special Judge (Juvenile Court), Gopalganj in connection with Gopalganj Town P.S. Case No. 779 of 2022 registered for the offence(s) punishable under Section(s) 302, 201 and 120(B) of



the Indian Penal Code, whereby and whereunder the prayer for bail made by the appellants has been rejected.

3. The main submissions advanced by learned counsel for the appellants are that as per the allegation levelled in the FIR, the deceased was lastly seen in the company of the appellants before the commission of the alleged murder except this there is no allegation against the appellants and they have been declared juvenile and at the time of commission of the alleged occurrence the appellant No. 1 was 16 years and 9 months old and appellant No. 2 was 16 years and 5 months old and during investigation, police did not find any incriminating material against the appellants to show their involvement in the alleged crime except the allegation of last seen levelled in the FIR and the appellants have spent sufficient protective custody period in the Remand Home and the Social Investigation Report is not against them.

4. Learned counsel appearing for the informant as well as learned APP for the State has vehemently opposed the prayer for bail of the appellants and submitted that the instant matter relates to brutal murder of the victim and as per allegation, the victim was taken by both the appellants from his house and thereafter his dead body was recovered behind the



house of the appellant No.1 and several stab injuries were found on the body of the deceased.

5. Heard both the sides and perused the order impugned, FIR, Case Diary and Social Investigation Report concerned to both the appellants. At the time of hearing, the prosecution has not drawn the attention of this Court to any direct evidence being against the appellants to show their involvement in the alleged crime except the allegation of last seen and the informant mainly raised suspicion against the appellants on account of the victim being taken by the appellants from his house just before the commission of the alleged crime and the appellants were juvenile at the time of the alleged occurrence as they have been declared juvenile and they have spent sufficient protective custody period in the remand home and the social investigation report is not against them and during the course of argument it has been submitted by learned counsel for the informant that some of the accused persons are on bail, in the light of these facts, in my opinion, a lenient approach can be taken in respect of the appellants. Accordingly, let the appellants named-above be enlarged on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned Addl.



District and Sessions Judge- 1st -cum- Special Judge (Juvenile Court), Gopalganj in connection with Gopalganj Town P.S. Case No. 779 of 2022 on the following conditions:-

(i) Both the bailors shall be father and mother of the appellants.

(ii) Each appellant's parents shall file written undertaking before the trial court at the time of furnishing bail bonds that they will take care of the appellant, for whom they have furnished bail bonds, 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 appellants particularly with regard to their educational development after a gap of every six months during the period of trial and if any adverse to the development of any of the appellants or appellants' further involvement in any criminal activity is found then the trial court shall take serious action against such appellant or appellants by taking him/them into custody.

(iii) If the appellants affect or prejudice any witness of the prosecution or any evidence concerned to the alleged offence during his/their trial then also the trial Court shall take serious action against such appellant or appellants by taking him/them 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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