

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1853 of 2022

Arising Out of PS. Case No.-16 Year-2021 Thana- RAMGARH District- Kaimur (Bhabua)

Chandrabhan Upadhyay Son of Barmeshwar Nath Upadhyay Resident of
Village - Narahi, P.S. - Narahi, District - Ballia (U.P.).

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Pawan Kumar Singh, Adv.

For the Respondent/s : Mr. Mukeshwar Dayal, APP.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

8 12-01-2023 Learned counsel for the appellant and learned APP
for the State are present and they are heard.

The instant appeal has been filed for the relief of bail and against the order dated 14.02.2022 passed by learned Additional District Sessions Judge-I-cum-Special Judge, Kaimur at Bhabua in Adult Criminal Trial No. 07 of 2021 refusing to grant of bail to the appellant in connection with Ramgarh P.S. Case No. 16 of 2021 registered under Sections 363 and 364 of the Indian Penal Code.

It is submitted by the learned counsel Mr. Pawan Kumar Singh appearing for the appellant that the appellant is a young boy and his age has been assessed below 18 years and he has been declared as a juvenile by the learned Juvenile Justice Board, Kaimur vide order dated 09.08.2021 and his trial is

running in the court of Additional District & Sessions Judge-I-cum-Special Judge, Kaimur at Bhabhua and the same is at initial stage and he has been languishing in Remand Home since 22.01.2021 and he has clean antecedent and Social Investigation Report called for by this Court has been received which shows that there are parents, sisters and elder brother of the appellant in his family and all of them have fair and clean antecedent. Further submission is that the so-called victim was recovered on the same day of alleged occurrence and the appellant was not named in the FIR and merely suspicion was raised against him and he was not involved in the alleged incident of kidnapping and the victim did not name the appellant in his statement before the Judicial Magistrate.

Learned APP Mr. Mukeshwar Dayal appearing for the State has opposed the bail prayer of the appellant and submitted that if the appellant's prayer is allowed then specific direction to keep the appellant in proper and safe custody of his family members should be given.

Having considered the above submissions and mainly taking into account the Social Investigation Report sent by the District Probation Officer and also considering the appellant's age and his period of detention in Remand Home and the

approach of learned Trial Court while rejecting the prayer of the appellant does not seem proper, in the opinion of this Court it will be proper to enlarge the appellant on bail. Accordingly, the appellant is directed to be released from the Remand Home on furnishing of two sureties of the amount of Rs. 10,000/- (Rupees Ten Thousand) to the satisfaction of the Trial Court in connection with Ramgarh P.S. Case No. 16 of 2021 and both the sureties shall be parents of the appellant who shall file a report after every three months before the Trial Court regarding the educational and social progress of the appellant and if any further involvement of the appellant in any other criminal activity is found by the Trial Court then the privilege so granted by this Court order shall stand cancelled.

Accordingly, the order impugned is set aside and this appeal stands allowed.

(Shailendra Singh, J)

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