

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2761 of 2023

Arising Out of PS. Case No.-288 Year-2021 Thana- SAHEBPUR KAMAL District-
Begusarai

NIKHIL KUMAR Minor S/O Shaligram Khirhari @ Shaligram Pd. Yadav
Through his father and natural guardian Shaligram Khirhari @ Shaligram Pd.
Yadav aged about 73 years (Male) son of Late Raj Kishor Khirhari, Both are
resident of Village- Baudhrani, P.S- Haweli Kharagpur (Shampur), Distt.-
Munger.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Binod Kumar
For the Respondent/s : Mr. Abha Singh

CORAM: HONOURABLE MR. JUSTICE ARVIND SRIVASTAVA
ORAL JUDGMENT

Date : 22-09-2023

1. Heard learned counsel for the appellant and
learned counsel appearing on behalf of the State.

2. 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 appellant by order
dated 03.04.2023 passed by the Additional Sessions Judge-I-
cum-P.O. of Children Court, Begusarai in connection with
J.J.C.P. Case No. 38 of 2022, J.J.B. Case No. 382 of 2022
arising out of Sahebpur Kamal P.S. Case No. 288 of 2021.

3. On bare perusal of provision of Section 12 of
the Juvenile Justice (Care and Protection 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.

4. The impugned order mentions that the release of the appellant will expose him to moral, physical and psychological danger and that would defeat the ends of justice.

5. The existence of the aforesaid grounds should not mean guesswork but it should be supported by some evidence on record such as report of the probation officer etc. The report of the probation officer does not mention anything as has been recorded by the Children Court. Further the report of the probation officer suggests that the appellant helps in the household works of his family. The appellant will also participate in the agricultural work with his father. Further the report mentions that there is no danger to the appellant in the society.

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



Protection of Children) Act, 2015. The impugned order dated 03.04.2023 passed by the learned Additional Sessions Judge-I-cum-P.O. of Children Court, Begusarai in connection with J.J.C.P. Case No. 38 of 2022, J.J.B. Case No. 382 of 2022 arising out of Sahebpur Kamal P.S. Case No. 288 of 2021 is, accordingly, set aside. Let the appellant, above named, be enlarged on bail on execution of surety bond by the father of the appellant giving undertaking that she will keep proper care and upkeep of the appellant and will fully co-operate in the pending enquiry/trial.

7. The appeal stands disposed of.

(Arvind Srivastava, J)

shailendra/-

AFR/NAFR	NAFR
CAV DATE	NA
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