

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3292 of 2022

Arising Out of PS. Case No.-663 Year-2020 Thana- SUGAULI District- East Champaran

Sanjit Kumar, Son of Ramagya Mahto @ Ramashray Mahto Resident of Village - Fulwariya Ward No.5, P.s.- Sugauli, Distt.- East Champaran , through his father/Guardian, Namely Ramagya Mahto @ Ramashray Mahto, aged about 52 Years (M), Son of Late Khublal Mahto Resident of Village - fulwariya Ward no.5, P.s.- Sugauli, Distt.- East Champaran

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

with

CRIMINAL APPEAL (SJ) No. 2906 of 2022

Arising Out of PS. Case No.-663 Year-2020 Thana- SUGAULI District- East Champaran

Suresh Kumar, Son Of Panna Lal Sahni R/V- Panapur Ranjita, Ps- Harsidhi, Dist- East Champaran

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

(In CRIMINAL APPEAL (SJ) No. 3292 of 2022)

For the Appellant/s : Mr. Abhishek Kumar, Advocate

For the Respondent/s : Mr. Syed Ashfaque Ahmad, APP

(In CRIMINAL APPEAL (SJ) No. 2906 of 2022)

For the Appellant/s : Mr. Karandeep Kumar, Advocate

For the Respondent/s : Mr. Syed Ashfaque Ahmad, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 13-01-2023 Mr. Abhishek Kumar and Mr. Karandeep Kumar, learned counsels appearing for the appellants and Mr. Syed Ashfaque Ahmad, learned APP appearing for the State are present and they are heard through video conferencing.

It is submitted by learned counsel for the appellant



Sanjit Kumar that as per the FIR only one country-made pistol with two live cartridges was alleged to have been recovered from the possession of this appellant and as per the assessment of the age made by Juvenile Justice Board, the appellant's age was assessed to be above 16 years but below 18 years at the time of commission of the alleged occurrence and while rejecting the appellant's prayer for bail by the Court of ADJ 1st the provisions of Section 12 of J.J. Act was not taken into consideration by the trial Court and the said appellant has been languishing in jail since 02nd January, 2021 and the Social Investigation Report is not of such a nature as to justify the denial of the prayer of bail.

It is submitted by learned counsel appearing for the appellant Suresh Kumar that though as per the allegation made by the prosecution, the said appellant was found travelling in the alleged vehicle but from his possession no any type of illegal material or any fire-arm was recovered and the age of the said appellant was assessed as 17 years being at the time of the alleged occurrence by the Juvenile Justice Board, in fact the said appellant was a passenger in the alleged car when the recovery of the alleged fire-arms and contraband was made and while rejecting the prayer for bail made by this appellant the learned



Court below did not appreciate the Social Investigation Report in right perspective and no proper reason was assigned for rejecting the prayer for bail by the Court below.

Learned APP appearing for the State has no objection to the prayer for bail made by both the appellants and he submits that in view of the Social Investigation Report, the prayer for bail of both the appellants may be accepted.

Having considered the above submissions and mainly taking into account the Social Investigation Report concerned to both the appellants which shows that there are sufficient major family members in the family of both the appellants who can properly look after both the appellants and keeping them in custody may hamper their progress in all spheres and moreover they have spent much time in custody and they are facing trial in the present time and there is no possibility of the appellants to come in the contact of known criminal after release and their release will not defeat the ends of justice. In the opinion of this Court the learned Court below did not take proper approach while deciding the prayer of both the appellants, accordingly, I find substance in the prayer of both the appellants. Hence, order impugned is set aside and their prayer stands allowed and both the appellants are directed to be released on bail on furnishing



of bail bond of Rs.10,000/- each by two sureties who shall be their parents and in the absence of their parents the sureties must be their close relatives and after the release the said sureties of both the appellants shall submit a report before the trial Court after a gap of every three months regarding the social and educational development of the appellants. If any further involvement of any of the appellants in any criminal activity is found then the learned Court below shall take a serious action against him by taking him in custody. Accordingly both the appeals stand allowed.

(Shailendra Singh, J.)

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