

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL APPEAL (SJ) No.3141 of 2022**

Arising Out of PS. Case No.-293 Year-2021 Thana- NAUTAN District- West Champaran

SK. BARAK @ JIAUL HAQUE @ JAUYAK S/o Sk. Ali Hasan R/o Village - Khadda Chudiharwa Tola, P.S.- Nautan, District - West Champaran. Through his Mother being natural guardian namely - Jaitun Nesha, aged about 36 years, Female, W/o Sk. Ali Hasan, R/o Village - Khada Chudiharwa Tola, P.S.- Nautan, District - West Champaran.

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

**Appearance :**

For the Appellant/s : Mr.Bimlesh Kumar Pandey  
For the Respondent/s : Mr.Anita Kumari Singh

**CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY**  
**ORAL ORDER**

4      14-02-2023                      Heard the parties.

Let the defect(s), as pointed out by the office, be removed within a period of four weeks from today.

Learned counsel for the appellant is permitted to make necessary correction in the memo of appeal.

The present appeal has been filed against the order dated 18.08.2022 passed by learned Additional District and Sessions Judge 1<sup>st</sup> cum Children's Court, Bettiah, West Champaran in B.P. No. 3822/2022, whereby and whereunder the prayer for regular bail on behalf of the appellant in connection with Special Case No. 07 of 2022 arising out of Nautan P.S. Case No. 293 of 2021 registered for the offences punishable



under Section 302, 201/34 of the Indian Penal Code was rejected.

As per prosecution case, the appellant and others are alleged to have drown the informant's child.

Learned counsel for the appellant submits that vide order dated 15.06.2022 passed in JJB Case No. 595/2022 the appellant was declared as 'child in conflict with law' (i.e. juvenile) and his age was assessed as 16 years 6 months and 2 days on the date of alleged occurrence thereafter, vide order dated 13.07.2022 the appellant's case was sent to the Children Court, Bettiah, West Champaran. The appellant is in observation home since 27.09.2021. Learned counsel further submits that the informant is not the eye witness of the alleged occurrence. The appellant is falsely implicated in this case merely on suspicion. There is no specific overt-act against the appellant. Allegation against the appellant is general and omnibus in nature. Learned counsel in para 3 of the memo of appeal stated that the appellant bears no criminal antecedent, meaning thereby the appellant is not in a bad association. The finding of concern court is that the bail of the appellant is rejected on the ground of gravity of the crime which is not maintainable under Section 12 of the Juvenile Justice Court and Protection Act.



Learned A.P.P. opposes the prayer for bail of the appellant.

As per statute, the bail application of a child in conflict with law is not to be considered on the merit of the case or nature of allegation or gravity of the offence, rather in terms of Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

In view of aforesaid facts and circumstances as well as position of law as stated above, order dated 18.08.2022 passed by learned Additional District and Sessions Judge 1<sup>st</sup> cum Children's Court, Bettiah, West Champaran in B.P. No. 3822/2022 in connection with Special Case No. 07 of 2022 arising out of Nautan P.S. Case No. 293 of 2021 is hereby, set aside and the appeal is allowed.

Accordingly, the above-named appellant is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Additional District and Sessions Judge 1<sup>st</sup>, Children's Court, Bettiah, West Champaran in connection with Special Case No. 07 of 2022 arising out of Nautan P.S. Case No. 293 of 2021 subject to the condition that one of the bailor will be father/maternal uncle of the appellant



and he (father/maternal uncle) would file an affidavit giving an undertaking to the effect that he will take proper care of good behavior and child’s(appellant’s) well being and will not allow him to go in the company of bad elements.

Accordingly appeal stands disposed of.

**(Alok Kumar Pandey, J)**

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