

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3298 of 2022

Arising Out of PS. Case No.-46 Year-2022 Thana- RAJEPUR District- East Champaran

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GUNJESH KUMAR S/O MANOJ KUMAR UNDER GUARDIANSHIP
AND NATURAL AND LEGAL GUARDIAN OF HIS FATHER NAMELY
MANOJ KUMAR AGED ABOUT 37 YEARS, GENDER- MALE, SON OF
MAUJE LAL SAH, BOTH ARE RESIDENT OF VILLAGE- MADHUHAN,
P.S.- RAJEPUR, DISTRICT- EAST CHAMPARAN

... .. Appellant/s

Versus

1. The State of Bihar BIHAR
2. MOHAMMAD ALAM SON OF LATE OKIL MIYAN R/O VILLAGE-
MADHUAHAN, P.S.- RAJEPUR, DISTRICT- EAST CHAMPARAN

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Madhurendra Kumar
For the Respondent/s : Mr.Zeyaul Hoda

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CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

5 13-03-2023 Heard learned counsel for the appellant and learned APP
for the State.

The present appeal has been filed against the order dated 05.08.2022 passed by learned 1st Additional Sessions Judge-cum Special Judge, Children's Court, East Champaran, Motihari in connection with Children Trial No. 17 of 2022 arising out of Rajepur P.S. Case No. 46 of 2022 registered under Sections 302, 120(B), 34 of the IPC, whereby and whereunder the prayer for bail of the appellant was rejected.

As per prosecution case, unknown person killed the informant's son by means of knife and threw his dead body.

Learned counsel for the appellant submits that name of



the present appellant (juvenile) has not been mentioned in the FIR and on the basis of suspicion his name transpired after two days of the occurrence in the re-statement of informant. He further submits that except confessional statement, there is nothing on record to demonstrate the complicity of the appellant with the alleged occurrence. He further submits that according to para-3 of the memo of appeal the appellant bears no criminal antecedent, meaning thereby the appellant is not associated with any known criminal organization. The appellant is in judicial custody since 22.02.2022. He further submits that appellant has falsely been implicated in this case merely on suspicion. He further submits that vide order dated 21.03.2022, the learned Juvenile Justice Board declared the appellant as a child in conflict with law (juvenile) and assessed his age 17 years 11 months and 13 days. Learned counsel for the appellant (juvenile) submits that at para 8 of memo of appeal father of the appellant (juvenile) undertakes that he will take responsibility of the appellant.

Learned A.P.P. for the State vehemently opposes the prayer of 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, impugned order dated 05.08.2022 is hereby set aside and the appeal is allowed.

Accordingly, the above-named appellant is directed to be enlarged 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 1st Additional Sessions Judge-cum Special Judge, Children's Court, East Champaran, Motihari in connection with Children Trial No. 17 of 2022 arising out of Rajepur P.S. Case No. 46 of 2022, subject to condition that one of the bailors will be father of the appellant who will file an affidavit giving an undertaking to the effect that he will take proper care of good behaviour and child's (appellant's) well being and will not allow him to go in the company of bad elements.

Accordingly, the instant appeal stands disposed of.

(Alok Kumar Pandey, J)

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