

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3380 of 2022

Arising Out of PS. Case No.-36 Year-2021 Thana- MAHILA P.S. District- Bhagalpur

Md. Sonu @ Md. Mustfa Son of Md. Ajmat @ Ajmat Hussain R/O Village -
Abhia Bazar, P.S.- Gopalpur, District - Bhagalpur.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Rakesh Kumar Singh, Advocate
For the Respondent/s : Ms. Anita Kumari Singh, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL JUDGMENT

Date : 02-02-2023

Learned counsel Mr. Rakesh Kumar Singh, appearing
for the appellant and learned APP Ms. Anita Kumari Singh,
appearing for the State are present and they are heard on the merit
of this appeal.

2.The instant appeal has been preferred against the order
dated 05.08.2022 passed by the Court of learned Additional
Sessions Judge-I-Cum-Special Judge (Children Court), Bhagalpur
in Criminal Appeal No. 34 of 2022, by the appellant for the relief
of bail whereby the prayer for bail made by the appellant was
rejected and from which being aggrieved and dissatisfied the
instant appeal has been brought and the appellant has been
languishing in remand home in connection with Naugachia Mahila
P.S. Case No. 36 of 2021 registered for the offences punishable
under Sections 376, 448, 504 and 120B of the Indian Penal Code.



3.It is submitted by learned counsel for the appellant that the appellant has been declared juvenile and he was approximately sixteen years old on the date of the alleged occurrence. In fact, the allegation of establishing sexual relation with the informant by this appellant is completely false and in this regard Annexure No. 2 is very relevant which is an information petition filed by the father of the appellant and in that petition the father of the appellant showed his apprehension of false implication of his son by the prosecution party as the informant wanted to marry the appellant and in this regard she and her family members were making pressure upon the appellant and his family members and after filing that information petition the FIR of the instant matter was lodged. Further submission is that the appellant has no criminal antecedent and the ground taken by the Court below in the order impugned while rejecting the prayer for bail is not tenable in the light of provisions of Juvenile Justice Act as merely on the basis of an apprehension of physical danger to the appellant on account of the house of the informant being situated nearby the house of the appellant the prayer of the appellant was rejected. Further submission is that the appellant has been languishing in remand home since 04.04.2022 and the social investigation report submitted before this Court is in favour of the prayer of the appellant.



4.Learned APP has no objection to the prayer for bail made by the appellant and submitted that in the social investigation report any type of complaint has not been made in respect of conduct of the appellant.

5.Heard both the sides and perused the order impugned and social investigation report. As per the FIR, the informant was 18 years old when she lodged the FIR while the appellant was below 18 years as per his age declared by Juvenile Justice Board and he has clean antecedent as per the statement made at paragraph No. 3 by the appellant in the memo of appeal. While rejecting the prayer for bail the learned Court below mainly considered the possibility of physical danger to the appellant on account of his house being situated near the house of the informant but the said apprehension does not appear to be proper in the light of the social investigation report which shows the family background of the appellant and moreover, the learned court below has not mentioned the cogent material upon which basis the said apprehension has been made. Considering these facts, this Court is of the opinion that the ground taken by the Court below while rejecting the prayer of the appellant is not in accordance with spirit of Section 12 of Juvenile Justice Act, so the order impugned is not proper and legal.



6. Accordingly, order impugned stands set aside and the present appeal stands allowed and the appellant named-above is directed to be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Sessions Judge-I-Cum-Special Judge (Children Court), Bhagalpur in Criminal Appeal No. 34 of 2022 arising out of Naugachia Mahila P.S. Case No. 36 of 2021.

(Shailendra Singh, J.)

maynaz/-

AFR/NAFR	NAFR
CAV DATE	NA
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