

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3489 of 2022

Arising Out of PS. Case No.-56 Year-2021 Thana- PUPRI District- Sitamarhi

XXX Son of Hari Shankar Prasad @ Harishankar Sah R/O of Village-
Madhuwan Bazar, Bajpatti, P.S.- Bajpatti, District- Sitamarhi under the
guardianship of his father Harishankar Prasad @ Harishankar Sah, R/O
Village- Madhuwan Bazar, Bajpatti, P.S.- Bajpatti, District- Sitamarhi

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Ashok Kumar Jha
For the Respondent/s : Mr.Syed Mojibur Rahman

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

7 08-08-2023 Heard learned counsel for the appellant and learned
APP for the State.

2. The present appeal has been filed against the order dated 09.06.2022 passed by learned Ist Additional Sessions Judge -cum- Special Judge, Children Court, Sitamarhi in connection with Pupri P.S. Case No. 56 of 2021 registered under Sections 394, 302 and 307/34 of the IPC and Section 25(1-b)A, 26/35 and 27 of the Arms Act whereby and whereunder the prayer for bail of the appellant was rejected.

3. As per prosecution case, unknown criminal shot Sanjay Prasad who later on died on account of injury and F.I.R. has been lodged against three unknown persons.

4. Learned counsel for the appellant submits that



there is no eye witness of the alleged occurrence and F.I.R. has been lodged against unknown. He further submits that name of the appellant has been surfaced in this case near about two months after the alleged date of occurrence and thereafter appellant was remanded in this case from Bajpatti P.S. Case No. 42 of 2021 as mentioned at para 72 of the case diary. Thereafter, the appellant confessed his guilt disclosing his involvement alongwith others in the present case as mentioned in para 74 of the case diary. Except confessional statement, there is nothing on record to demonstrate the complicity of the present appellant with the alleged occurrence. No incriminating article has been recovered from the possession of the appellant. He further submits that how the present petitioner has been made accused by Dy. S.P. in the present case as there is nothing on record to demonstrate the complicity of the present appellant with the alleged occurrence and moreover, the appellant/juvenile bears criminal antecedent of four cases of 2021 which indicates that very purposely the appellant/juvenile has been made accused in one case after another in a routine manner whereas initially all the cases were lodged against unknown. He further submits that appellant is in observation home since 24.02.2021. He further submits that vide order dated 25.06.2021 the learned Juvenile



Justice Board, Sitamarhi declared him to be juvenile aged about 17 years 11 months and 6 days. He further submits that the father of the appellant undertakes not to allow the appellant/juvenile to come in contact with anti-social elements of the society after released on bail.

5.Learned A.P.P for the State vehemently opposes the prayer of bail of the appellant.

6. As per statue, 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.

7. In view of aforesaid facts and circumstances, position of law as stated above, the argument advanced on behalf of both sides, undertaking given by the father of the appellant that he will not allow the appellant/juvenile to come in contact with anti-social elements of the society after released on bail and the material available on record, impugned order dated 09.06.2022 is hereby set aside and the appeal is allowed.

8. 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 Ist Additional Sessions Judge
-cum- Special Judge, Children Court, Sitamarhi in connection
with Pupri P.S. Case No. 56 of 2021, 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.

9. Accordingly, the instant appeal stands disposed of.

(Alok Kumar Pandey, J)

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