

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3667 of 2022

Arising Out of PS. Case No.-11 Year-2022 Thana- AKBARNAGAR District- Bhagalpur

SACHIN KUMAR @ SK SON OF SUNIL MANDAL THROUGH FATHER
AS GUARDIAN OF THE APPELLANT NAMELY SUNIL MANDAL,
AGED ABOUT 57 YEARS, MALE, SON OF SAROUG MANDAL @
SARAUG MANDAL, R/O VILLAGE- SAHABAD, P.S.- SULTANGANJ,
DISTRICT- BHAGALPUR

... .. Appellant/s

Versus

THE STATE OF BIHAR BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Indeshwari Prasad Mandal
For the Respondent/s : Mr.Mukeshwar Dayal

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

9 03-07-2023 Heard learned counsel for the appellant and learned
APP for the State.

The present appeal has been filed against the order dated 01.09.2022 passed by learned Special Judge (Children Court), Bhagalpur in connection with Special Case (Children) No. 20/2022 arising out of Akbarnagar P.S. Case No. 11 of 2022 registered under Sections 341, 323, 504, 307, 34 of the IPC and Section 27 of the Arms Act and later on added Section 302 of the I.P.C Act whereby and whereunder the prayer for bail of the appellant was rejected.

As per prosecution case, four unknown miscreants fired upon the informant and his brother and fled away towards



Sultanganj.

Learned counsel for the appellant(juvenile) submits that the present appellant(juvenile) is not named in the FIR and his name has been surfaced in the present case upon the confessional statement of co-accused Virendra Yadav during the course of investigation. Except confessional statement of co-accused, there is nothing on record to connect the present appellant (juvenile) with the alleged occurrence. He has been falsely implicated in the present case on account of having two criminal antecedents which is mentioned in para 3 of the memo of appeal. He further submits that appellant is in observation home since 16.04.2022. He further submits that vide order dated 28.05.2022, the learned Juvenile Justice Board declared the appellant as a child in conflict with law (juvenile) and assessed his age 16 years 6 months and 9 days. Learned counsel further submits that co-accused, Virendra Yadav has already been granted bail vide Cr. Misc. No. 41067 of 2022 by this Court and the case of present appellant stands more or less on similar footing. Learned counsel for the appellant (juvenile) submits that father of the appellant (juvenile) undertakes that he will provide present appellant (juvenile) to conducive atmosphere and environment to keep him mentally and psychologically fit



and best.

Learned A.P.P for the State vehemently 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, period of custody, 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 provide present appellant (juvenile) to conducive atmosphere and environment to keep him mentally and psychologically fit and the material available on record, impugned order dated 01.09.2022 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 Special Judge (Children Court), Bhagalpur in connection with Akbarnagar P.S. Case No. 11 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 element.

Accordingly, the instant appeal stands disposed of.

(Alok Kumar Pandey, J)

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