

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3750 of 2022

Arising Out of PS. Case No.-149 Year-2021 Thana- GAUNAHA District- West Champaran

Ajay Kumar @ Ajay Chauhan @ Ajay Kumar Chauhan S/O Hare Krishna Chauhan Resident Of Ward No- 12, Village- Srirampur, P.S.- Gaunaha, District- West Champaran, Through His Mother Ramkanti Devi, Aged About 50 Years, Gender- Female, Wife Of Hare Krishna Chauhan, Resident Of Srirampur, P.S.- Gaunaha, District- West Champaran.

... .. Appellant/s

Versus

THE STATE OF BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s	:	Mr. Vatsal Verma, Adv.
For the Informant/s	:	Mr. Anant Kumar Mishra, Adv.
For the Respondent/s	:	Mr. Mukeshwar Dayal, APP.

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

4 02-02-2023 Learned counsel Mr. Vatsal Verma appearing for the appellant, learned counsel Mr. Anant Kumar Mishra for the informant and learned APP Mr. Mukeshwar Dayal appearing for the State are present and they are heard in respect of the prayer for bail made by the appellant in the memo of appeal.

The instant appeal has been filed against the order dated 01.09.2022 passed by the learned Additional District and Sessions Judge-I cum Special Judge (SC/ST), Bettiah, West Champaran whereby the prayer for bail of the appellant in connection with Gaunaha P.S. Case No. 149/2021 lodged under Sections 147, 148, 149, 447, 323, 325, 307, 341, 324 and 302 of the Indian Penal Code has been rejected. From which being

aggrieved and dissatisfied, the instant appeal has been preferred.

It is submitted by learned counsel for the appellant that the appellant has been declared juvenile and on the alleged date of occurrence he was seventeen years three months and two days old and he has clean past history and the Gaunaha P.S. Case No. 149 of 2021 in which the appellant has been kept in remand home is a counter-blast of Gaunaha P.S. Case No. 156 of 2021 lodged on the basis of Fardbeyan of the appellant and the same was recorded at hospital on 24.07.2021 but the FIR of the appellant's case was lodged nine days after the occurrence relating to the appellant which shows the police high headedness as well as prejudicial approach in respect of the appellant's case. Further submission is that altogether eight persons have been named in the FIR and after the investigation two co-accused persons namely Neetu Kumari and Raj Kapoor Chauhan were not sent up by the police and admittedly, in between the appellant's family and prosecution party, a land dispute was running when the alleged occurrence took place and the FIR in connection with the instant matter was lodged eight days after the alleged occurrence of murder.

On the contrary, it is submitted by learned counsel for the respondent No. 2 that the appellant was the main assailant in

the alleged occurrence of murder and he repeatedly inflicted *Farsa* blow on the deceased who sustained serious injuries at his neck and parietal part of his body which are corroborated to the nature of the weapon alleged in the FIR and the father of the appellant is also accused in the instant matter.

I have heard both the sides and perused the order impugned and social investigation report and other relevant materials. It is settled principle that the gravity of the offence can not be made a ground for rejecting the prayer for bail of a declared juvenile and in the instant matter a land dispute is stated to be the genesis of the alleged occurrence and the social investigation report does not justify the grounds taken by the learned court below in the order impugned while rejecting the prayer for bail of the appellant who has clean antecedent as per the statement made in the memo of appeal and in the family of the appellant there are several persons and the recommendation of the probation officer made in the Social Investigation report also goes in favour of the appellant. Considering all these facts, the order impugned does not appear to be proper and appropriate in the light of the provisions of Section 12 of the Juvenile Justice Act. Accordingly, it is set aside and the present appeal stands allowed and the appellant 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 District and Sessions Judge-I cum Special Judge (SC/ST), Bettiah, West Champaran in Connection with Gaunaha P.S. Case No. 149/2021.

Further on this condition that after his release, the appellant's mother will submit a report after every three months before the trial court showing the social, educational and other development of the appellant and the said report must be filed till the completion of one year from the date of this order, if anything negative is observed in respect of the social, educational and other development of the appellant then the learned Court below will have a liberty to take a serious action against the appellant.

(Shailendra Singh, J)

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