

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4313 of 2023

Arising Out of PS. Case No.-202 Year-2021 Thana- DUMRA District- Sitamarhi

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X (CHILD IN CONFLICT WITH LAW) SON OF XXXXXX RESIDENT OF
VILLAGE- MADHOPUR, PS- BATHANAHA, DISTRICT- SITAMARHI

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Vikash Kumar Jha, Adv.

For the Respondent/s : Mr.Ramchandra Singh, APP

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 12-12-2023 1. Heard learned counsel for the appellant and learned
APP for the State.

2. The instant appeal has been filed under Section
101(5) of Juvenile Justice (Care and Protection of Children) Act,
2015 against the order dated 21.08.2023 passed by learned
Additional Sessions Judge-I, Sitamarhi in connection with
Dumra P.S. Case No. 202 of 2021 registered for the offences
punishable under Section 302 read with Section 34 of the IPC
and under Section 27 of Arms Act whereby the prayer for bail
made by the appellant has been rejected.

3. The main submissions advanced by learned counsel
for the appellant are that at the time of commission of alleged
occurrence the appellant was minor and he has been declared
child and on the alleged date of occurrence, his age was 17
years, six months and twenty eight days and he has been



languishing in observation home since 09.06.2021 and in the present matter he was dragged mainly considering the confessional statement of accused persons but except this, there is no other material against him to connect him with the alleged occurrence and if the said confessional statements of the accused persons are believed even then no serious allegation is appearing against the appellant and he is not alleged to be one of the assailants and he simply accompanied other co-accused persons as per prosecution's allegation. Further submission is that though, against the appellant there are criminal antecedents of five cases but he has got bail in all the said cases and other co-accused persons, namely, Vasim Anwar @ Wasim Anwar Khan @ Puttu @ Puttu Khan, Jitesh Jha @ Jitu, Shubham Kumar, Anil Kumar Yadav, Suwansh Rai @ Subans Rai, Ramji Rai, Krishna Jha and Angad Kumar Gupta, carrying almost similar nature of allegation, have been released on bail and in the family of the appellant, there are several major family members who are ready to take care of him after his release. Further submission is that the trial of the appellant has commenced and charges have been framed but till date no progress has been made in his trial and the appellant has got himself enrolled in Intermediate class (science stream).



4. Learned APP appearing for the State has opposed the prayer for bail of the appellant.

5. Heard both sides. The appellant has been languishing in remand home since 09.06.2021 and he has undergone sufficient period in protective custody and there are several major family members in his family who are ready to take care of the appellant after his release and he has got himself enrolled in Intermediate class (science stream), though he has criminal antecedents of five cases but as per above submission, he has got bail in the said cases and the appellant's counsel has taken the plea that appellant was not one of the assailants and he simply accompanied the co-accused persons at the time of alleged occurrence and further, trial of the appellant has commenced, in my opinion, in the said circumstances, the appellant deserves to be released on provisional bail from the observation home. Accordingly, let the appellant named above be released on provisional bail for one year 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 Sitamarhi in connection with Dumra P.S. Case No. 202 of 2021 on the following conditions:-



(i) After completion of the provisional bail period, learned trial court shall call for a report from Probation Officer and concerned P.S. regarding the conduct of the appellant and if the appellant is found to be involved in any other criminal activity happened subsequent to the commission of offence of the present matter or any adverse progress with regard to his educational development is found then learned trial court shall, in presence of either of the circumstances, take serious action against him by cancelling his bail bond. If nothing adverse is found against the appellant then learned trial court shall confirm the provisional bail on the same bail bond taken under this order.

(ii) Both the bailors shall be parents of the appellant.

(iii) The appellant's parents shall file the written undertaking before the trial court at the time of furnishing bail bond that they will take care of the appellant after his release from the observation home.

(IV) Appellant shall co-operate in the trial and shall be properly represented on each and every date fixed by the trial Court and shall remain physically present as directed by the trial Court and on his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the trial



Court.

(V) If the appellant tampers with the evidence or the witnesses, in that case the prosecution will be at liberty to move for cancellation of bail.

6. In the result, the instant appeal stands allowed and the order impugned is hereby set aside.

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(Shailendra Singh, J)

