

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3997 of 2022

Arising Out of PS. Case No.-662 Year-2020 Thana- SUGAULI District- East Champaran

SANJIT KUMAR SON OF RAMAGYA MAHTO @ RAMASHRAY MAHTO R/O VILLAGE- PHULWARIYA, P.S.- SUGAULI, DISTRICT- EAST CHAMPARAN, THROUGH HIS FATHER/GUARDIAN, NAMELY RAMAGYA MAHTO @ RAMASHRAY MAHTO, AGED ABOUT 52 YEARS (M), SON OF LATE KHUBLAL MAHTO, R/O VILLAGE- PHULWARIYA, P.S.- SUGAULI, DISTRICT- EAST CHAMPARAN

... .. Appellant/s

Versus

The State of Bihar BIHAR

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Abhishek Kumar
For the Respondent/s : Mr.Syed Ashfaque Ahmad

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 27-06-2023 Learned counsel for the appellant is permitted to make necessary correction in para 11 of memo of appeal filed on behalf of the appellant.

Heard learned counsel for the appellant and learned APP for the State.

The present appeal has been filed against the order dated 13.10.2022 passed by learned 1st Additional Sessions Judge-cum-Special Judge Children's Court, East Champaran at Motihari in connection with Children Trial No. 24 of 2022 arising out of Sugauli P.S. Case No. 662 of 2020 registered under Sections 395 and 397 of the IPC whereby and whereunder the prayer for bail of the appellant was rejected.

As per prosecution case, on 29.12.2020 informant was



going to Gonda by truck loaded with 500 sacks of sugar. In the way, his truck was stopped by a car which was not bearing any number plate. Six people who were in the car entered into informant's truck and started assaulting the informant and Khalasi of Truck and snatched the key of the truck bearing Registration No. BR06G9262. It is further alleged that Rs. 60,000/- cash and Redmi mobile were also snatched away by the miscreants. Thereafter, the accused persons took out the informant and khalasi from the truck and put them into car and after covering some distance the accused persons tied them with a tree near a canal. It is further alleged that they were set free in the next morning by the miscreants.

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 self confessional statement of appellant during the course of investigation. He further submits that neither incriminating article has been recovered from the conscious possession of the appellant(juvenile) nor was he even put on TIP. 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 (juvenile) is in judicial custody since 01.01.2022. He further submits that vide order dated 14.02.2022, the learned Juvenile Justice Board declared the appellant as a child in conflict with law (juvenile) and assessed his age 17 years and 24 days. Learned counsel further submits that co-



accused Suresh Kumar has already been granted bail vide Cr. APP(SJ) No. 3001 of 2022 by a co-ordinate Bench of 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 take proper care of the appellant regarding his proper health, well-being, education, his society and would keep vigil on each and every movement of the appellant and will not allow him to go in the company of bad elements.

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. The Social Investigation report of appellant (juvenile) indicates that he is having attachment towards his parents and he values the direction of his parents.

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 take proper care of the appellant and will not allow him to go in the company of bad elements and the material available on record, impugned order dated 13.10.2022 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 1st Additional Sessions Judge-cum-Special Judge Children's Court, East Champaran at Motihari in connection with Children Trial No. 24 of 2022 arising out of Sugauli P.S. Case No. 662 of 2020, subject to the following conditions:-

(i) 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.

(ii) After release of the appellant (juvenile), his father shall submit the progress report of the appellant(juvenile) with regard to his educational and social development before the trial court after every three months during the trial and, if, any adverse to educational or social development of the appellant is found then the trial court will have a liberty to cancel the bail bond of the appellant and send him to appropriate place.

Accordingly, the instant appeal stands disposed of.

(Alok Kumar Pandey, J)

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