

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4079 of 2022

Arising Out of PS. Case No.-146 Year-2022 Thana- DUMRAO District- Buxar

XXXXX Son of Gopal Singh R/O Village- Mahuar, P.S.- Brahmpur, District- Buxar, Living under the natural guardian (father) namely, Gopal Singh, Aged About 41 Years (M), Son of Ramnath Singh, R/O Village- Mahuar, P.S.- Nainijore (Brahmpur), District- Buxar.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Arun Kumar Pandey, Advocate

For the Respondent/s : Mr. Binay Krishna, Spl. PP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

- 6 31-10-2023 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 08.09.2022, passed by learned Additional District & Sessions Judge-I-Cum-Special Judge (SC/ST & Children Court), Buxar in Child Case No. 10 of 2022, arising out of Dumraon P.S. Case No. 146 of 2022, registered for the offences punishable under Sections 394 and 302 of the Indian Penal Code 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 appearing for the appellant are that at the time of commission of

the alleged offence, the appellant was seventeen years and three months old and he has been declared juvenile and he has been languishing in remand home since 02.04.2022 and the FIR was registered against unknown persons and during investigation the name of appellant surfaced in the confessional statement of co-accused Umesh Singh, who has been granted bail. Further submissions are that as per the said confessional statement, the appellant only helped the co-accused persons in taking away the looted money and the main allegation of loot and committing firing is against the co-accused persons and in the family of the appellant there are his father and mother who are ready to file their undertaking to take care of him after his release. Further submission is that against the appellant there are criminal antecedents of two cases, out of them, he has been acquitted in one case and the second case was lodged under Section 30(a) of Bihar Prohibition and Excise Act and the appellant's father and mother have no criminal background.

5. Learned APP appearing for the State has opposed the bail prayer of the appellant and submitted that in view of the seriousness of the allegation, the appellant's prayer for bail has been rightly rejected by the trial Court.

6. Heard both the sides and perused the FIR, case diary and the order impugned. The appellant has been languishing in

remand home since 02.04.2022 and he has completed more than one year in remand home which is sufficient protective custody period of the appellant and moreover, in respect of the appellant's involvement in the alleged crime, the prosecution is mainly relying upon the confessional statement of the co-accused as submitted above and the father and mother of the appellant are ready to take care of the appellant after his release and the social investigation report goes to show that the appellant has passed the matriculation examination in first division and as per his counsel he is interested to pursue his education. Considering these facts, I am of the view that keeping the appellant in remand home continuously will hamper his educational career, hence, in my opinion, the appellant deserves to the privilege of bail. Accordingly, let the appellant named-above 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 & Sessions Judge-I-Cum-Special Judge (SC/ST & Children Court), Buxar in Child Case No. 10 of 2022, arising out of Dumraon P.S. Case No. 146 of 2022, on the following conditions:

(i) 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.

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

(iii) The appellant's father and mother shall be his bailors, who shall file their written undertaking before the trial Court to take care of the appellant after his release from the remand home during trial of the appellant.

(iv) The learned trial court is directed to call for a report regarding the conduct of the appellant from the Probation Officer after the gap of every six months, if any wrong to the conduct of the appellant is found then learned trial court shall take serious action against the appellant by canceling his bail bond.

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

(Shailendra Singh, J)

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