

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4293 of 2022

Arising Out of PS. Case No.-289 Year-2021 Thana- CHHATAUNI District- East Champaran

XXXXX Son of XXX Resident of Village - Badhai Tola, P.S. - Chhatauni,
District - East Champaran.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Karandeep Kumar, Adv.

For the Respondent/s : Mr. AMP Mehta, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

5 05-10-2023 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 07.11.2022 passed by learned Additional Sessions Judge 1st-cum-Special Judge, Children's Court, East Champaran at Motihari in connection with Children Trial No. 23 of 2022, arising out of Chhatauni P.S. Case No. 289 of 2021 registered for the offences punishable under Sections 302, 201, 120(B)/34 of IPC and 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 though the appellant is named in the



FIR but against him there is no specific allegation and he is simply alleged to be a member of the group of other accused persons who are stated to be in large number and the main allegation of catching hold the victim and pointing fire-arms and knife at the victim is against other accused persons, namely, Ujjwal Kumar and Sudhir Sharma and in the present matter all other accused persons have been granted bail and the appellant has been languishing in observation home since 15.03.2022, though against him there is criminal antecedent of one case, i.e. Piprakothi PS case No. 4/2020 in which he has been granted bail. Further submissions are that the appellant has been declared juvenile and on the date of alleged occurrence, his age was 16 years, three months and 14 days and as a matter of fact the brother of the appellant was murdered by the deceased and other accused persons for which Muffasil PS case No. 211/2019 was lodged and the social investigation report is not against the appellant.

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

5. Considering the above submissions and mainly taking into account the nature of allegation appearing against the appellant and the social investigation report which goes to



show that there are several major family members in the family of the appellant, though father of the appellant is accused in the present matter and one brother is younger to the appellant but there is mother of the appellant who is ready to take care of him after his release from the observation home and the said report also goes to show that the appellant has enrolled himself in matriculation class and he has spent considerable period of protective custody in remand home which is sufficient to keep him under observation and keeping him continuously in observation home will hamper his educational career, in my opinion, the appellant deserves to be released from the observation home. 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 Sessions Judge 1st-cum-Special Judge Children's Court, East Champaran at Motihari in connection with Children Trial No. 23 of 2022, arising out of Chhatauni P.S. Case No. 289 of 2021 on the following conditions:-

- (i) One of the bailors shall be mother of the appellant.
- (ii) The appellant's mother shall file written undertaking before the trial court at the time of furnishing bail



bond that she will take care of the appellant after his release from the observation home during the pendency of trial and the trial court shall call for progress report regarding the development of the appellant particularly with regard to his educational development after a gap of every six months during the period of trial and if any adverse to the development of the appellant or appellant's further involvement in any criminal activity is found then the trial court shall take serious action against the appellant by taking him into custody.

(iii) If the appellant affects or prejudices any witness of the prosecution or any evidence concerned to the alleged offence during his trial then also the trial court shall take serious action against the appellant by taking him into custody.

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

(Shailendra Singh, J)

BKS/-

U		T	
---	--	---	--

