

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.153 of 2023

Arising Out of PS. Case No.-349 Year-2021 Thana- GAYA KOTWALI District- Gaya

SAHIL KUMAR @ SAHIL PASWAN S/O LATE JITENDRA PASWAN
Resident of village- Bangla Asthan P.S.,- Kotwali, District- Gaya, Under the
guardianship of his mother namely Rekha Devi aged about 41 years, wife of
Late Jitendra Paswan, resident of Village- Pahsi, Bangla Asthan, P.S.-
Kotwali, District- Gaya.

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Manish Kumar No2

For the Respondent/s : Ms.Anita Kumari Singh

CORAM: HONOURABLE MR. JUSTICE ALOK KUMAR PANDEY
ORAL ORDER

3 08-05-2023 Heard the parties.

The present appeal has been filed against the order dated 09.11.2022 passed by learned Special Judge (Children Court), Gaya, whereby and whereunder the prayer for regular bail on behalf of the appellant in Juvenile Trial No. 12 of 2022 arising out of Kotwali P.S. Case No. 349 of 2021 (G.R. No. 3898 of 2021, Misc. No. 114 of 2021) registered for the offences punishable under Sections 302 and 34 of the Indian Penal Code was rejected.

As per prosecution case, when informant's son (Aditya Kumar) was at his home then co-accused Rahul came and called him out. It is also alleged that whole day the son of



informant did not come back and at about 4:00 PM he got information that one co-accused Rishi Kumar with his two friends Mayank and Monu Kumar threw the dead body of informant's son Aditya Kumar and fled away.

Learned counsel for the appellant submits that the appellant is not named in the F.I.R. His name has been surfaced upon the confessional statement of co-accused Rahul and others. Except confessional statement of co-accused, there is nothing on record to demonstrate the complicity of the present appellant with the alleged occurrence. The appellant bears two criminal antecedent which are not similar to the present case. Learned counsel further submits that the age of the appellant on the date of occurrence was assessed 17 years 7 months and 25 days by the J.J. Board, Gaya. Moreover the appellant is in observation home since 16.11.2021. He further submits that mother of appellant is deponent. She undertakes that if the appellant released on bail she will take proper care upon her son that he will not come in any association of bad elements.

Learned A.P.P. 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.

In view of aforesaid facts and circumstances as well as position of law as stated above, order dated 09.11.2022 passed by learned Special Judge (Children Court), Gaya, whereby and whereunder the prayer for regular bail on behalf of the appellant in Juvenile Trial No. 12 of 2022 arising out of Kotwali P.S. Case No. 349 of 2021 (G.R. No. 3898 of 2021, Misc. No. 114 of 2021) is hereby set aside and the appeal is allowed.

Accordingly, the above-named appellant is directed to be released 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 learned Special Judge (Children Court), Gaya, whereby and whereunder the prayer for regular bail on behalf of the appellant in Juvenile Trial No. 12 of 2022 arising out of Kotwali P.S. Case No. 349 of 2021 (G.R. No. 3898 of 2021, Misc. No. 114 of 2021) subject to the condition that mother of the appellant would file an affidavit giving an undertaking to the effect that she will take proper care of good behavior and appellant's well being and will not allow him to go



in the company of bad elements.

Accordingly, appeal stands disposed of.

(Alok Kumar Pandey, J)

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