

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.4448 of 2022

Arising Out of PS. Case No.-112 Year-2022 Thana- BANIAPUR District- Saran

XXXXX S/O XXX Resident of village- Chaturbhuj Chapra, P.S.- Baniyapur,
District- Saran.

... .. Appellant/s

Versus

1. The State of Bihar
2. XXX W/o of XYZ Resident of village- Bedauli, PS.- Baniyapur, Distt-
Saran

... .. Respondent/ informant

Appearance :

For the Appellant/s : Mr. Dhananjay Mishra, Adv.
For the Respondent/s : Mr. Binay Krishna, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

6 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 23.09.2022 passed by learned Additional Sessions Judge 1st-cum-Special Judge, Children's Court, Saran at Chapra in connection with C.C. case No. 06 of 2022, arising out of Baniyapur P.S. Case No. 112 of 2022 registered for the offences punishable under Sections 376(D)/ (B)/ 34 of the IPC, under Sections 4/6/8 of POCSO Act and under Sections 3(i) (r), (s), (w) of SC/ ST (Prevention of Atrocities) 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 the appellant has been declared juvenile and on the date of alleged occurrence, his age was 16 years, three months and seven days and as per allegation this appellant and two other juveniles, namely, Rahul Rai and Bega Prasad, who have also been declared juvenile, committed rape with the informant's minor daughter and both the said juveniles have been granted bail by the court below itself by different orders and case of the appellant is quiet similar to them but his prayer for bail was rejected and in the present matter the appellant has been languishing in remand home since 14.06.2022 and social investigation report is not against him.

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

5. Considering the above submissions and mainly the facts that in the present matter this appellant and two other juveniles committed rape with a minor girl and the said two juveniles as per appellant's counsel's submission have already been granted bail by the court below itself and the appellant has been languishing in remand home since 14.06.2022 and he has spent considerable period of protective custody in remand



home which is sufficient for him to be kept under observation, though as per social investigation report the appellant is an addict of alcohol and other social evils but the social investigation report also goes to show that there are several major family members in the family of the appellant, most of them have fair and clean antecedent, and father and mother of the appellant are ready to take care of the appellant after his release from the observation home, 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, Saran at Chapra in connection with C.C. case No. 06 of 2022, arising out of Baniyapur P.S. Case No. 112 of 2022 on the following conditions;-

(i) Both the bailors shall be father and mother of the appellant with further conditions that;-

(ii) The appellant's parents shall file 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 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 involvement in further criminal activity is found then the trial court shall take serious action against the appellant by taking him into custody.

(ii) 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)

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