

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.407 of 2024

Arising Out of PS. Case No.-805 Year-2023 Thana- ARARIA District- Araria

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Gautam Kumar Singh @ Gautam Kumar S/o Dinesh Singh R/o Vill -
Dhokariya, P.S. - Araria (Madanpur O.P.), Dist. - Araria

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr.Jitendra Kumar Giri

For the Respondent/s : Mr.Syed Ashfaque Ahmad

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**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

ORAL ORDER

5 20-06-2024 Heard learned counsel for the appellant and learned
APP for the State.

2. This criminal appeal has been preferred against the order dated 08-12-2023 passed by Ist Additional Sessions Judge-cum-Special Judge, Araria in Special (child) Case No. 10/2023 arising out of Araria (Madanpur) P.S. Case No. 805 of 2023 whereby and whereunder, the learned court below has rejected the prayer for bail of the appellant in a case registered for the offence under Sections 366 (AB), 504, 506 of Indian Penal Code and 6 of the POCSO Act.

3. Learned counsel for the appellant has submitted that the petition for bail of the appellant was rejected by the court below on the ground of social investigation report in



which, it has been mentioned that there is lack of discipline in the family of the appellant. There is allegation of commission of rape against the appellant upon a minor girl. Learned counsel for the appellant has further submitted that gravity of the offence, in a case of a child in conflict with law, cannot be taken into account. He also submitted that Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015, shows that a juvenile has to mandatorily be granted bail except the conditions provided under proviso of Section 12. These are the three conditions:-

(i) If there is reasonable grounds for believing that the release of the juvenile would likely to bring him into contact of any known criminal.

(ii) If there is likelihood of his exposure to the said person and if there is moral, physical or psychological danger might be possible to be occurred to the juvenile.

(iii) His release would defeat the ends of justice.

5. Neither of these three conditions were mentioned in the impugned order dated 08-12-2023.

6. Considering the above-mentioned facts and circumstances, this criminal appeal is allowed and the order dated 08-12-2023 passed by the learned court below in Special



(child) Case No. 10/2023 arising out of Araria (Madanpur) P.S.
Case No. 805 of 2023 is set aside.

7. Let the appellant, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of his respective parents on execution of surety bond of Rs. 10,000/- (ten thousand) to the satisfaction of Ist Additional Sessions Judge-cum-Special Judge, Araria in Special (child) Case No. 10/2023 arising out of Araria in connection with Special (child) Case No. 10/2023 arising out of Araria (Madanpur) P.S. Case No. 805 of 2023 with the condition that the father of the appellant shall furnish an undertaking that while the appellant is on bail, he will not allow the appellant to come in the company/association with any criminal or anti-social elements and he will take proper care of the appellant. Further, the appellant will be produced as and when required by the court below and shall cooperate during the trial.

(Nawneet Kumar Pandey, J)

A.K.V.//-

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