

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.769 of 2024

Arising Out of PS. Case No.-62 Year-2021 Thana- BELA District- Sitamarhi

XXXXX Son of Late XXXXX under the guardianship of his mother XXXXX
Resident of Ward No. 11, Malaha Tol, P.S.- Bela, District- Sitamarhi

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Krishna Kant Singh, Advocate
For the Respondent/s : Mr. Anand Mohan Prasad Mehta, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 25-04-2024 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, against the order dated 11.07.2023 passed by learned 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Sitamarhi, in connection with Bela P.S. Case No. 62 of 2021, registered for the offence(s) punishable under Section(s) 363, 302 of the Indian Penal Code, whereby and whereunder the prayer for bail made by the appellant has been rejected.

3. Mr. Krishna Kant Singh, learned counsel for the appellant submits that the appellant earlier preferred a bail prayer before the trial court which was rejected vide order dated 19.01.2022 which was challenged before this court by way of Cr.



Appeal (SJ). No. 652 of 2022 which was dismissed and thereafter the appellant again made a prayer for bail before the trial court which was also rejected by order dated 11.07.2023 which has been challenged in this appeal. He further submits that a fresh Social Investigation Report regarding the appellant's conduct has been called for and the same has been received and the said report is not against the appellant. He further submits that appellant has not remained involved in any criminal activity in the past and has been languishing in observation home since 24.04.2021 and the prosecution's material witnesses have been examined. He further submits that the appellant has been declared juvenile and his age was assessed as 16 years 8 months and 1 day at the time of commission of the alleged occurrence and he is being tried as a child in conflict with law in the children court.

4. Mr. Anand Mohan Prasad Mehta, learned APP appearing for the State has opposed this appeal and submitted that there is serious allegation against the appellant and the learned trial court has rightly rejected his bail prayer.

5. Heard both the sides, perused the order impugned and Social Investigation Report concerned to the appellant. The appellant has been languishing in observation home since 24.04.021 which is sufficient to keep him under observation and



there is no allegation of misconduct by the appellant in the observation home during the said custody period and as per above submission, the prosecution's material witnesses have been examined and the present Social Investigation Report is not against the appellant and there are three major members in the family of the appellant. Considering these facts, the appellant now 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 1st Additional Sessions Judge-cum-Special Judge, SC/ST Act, Sitamarhi, in connection with Bela P.S. Case No. 62 of 2021 on the following conditions:

- (i) One of the bailors shall be mother or elder brother of the appellant, who shall file her/his undertaking before the trial court at the time of furnishing bail bond to this effect that she/he will take care of the appellant after his release from the remand home during the trial period.
- (ii) Learned trial court shall call for progress report from the concerned 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)

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