

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1035 of 2024

Arising Out of PS. Case No.-118 Year-2023 Thana- DHORAIYA District- Banka

XXXXXX Son of XXXXX Resident of Village- Hirambi (Hirammi), P.S.-
Dhoriaya, District- Banka under guardianship of father namely XXXXXX
... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Brij Nandad Prasad, Adv.

For the Respondent/s : Mr. Bal Mukund Prasad Sinha, APP

CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

3 04-04-2024

1. Heard learned counsels for the parties.

2. This appeal has been preferred under Section 101(5) of Juvenile Justice (Care and Protection of Children) Act against the order dated 18.01.2024 passed by the court of learned Additional Sessions Judge-I-cum-Children Court, Banka in connection with G.R. No. 1485/2023 arising out of Dhoriaya P.S. Case No. 118/2023 registered for the offences under sections 365 and 376 of the Indian Penal Code whereby and whereunder the court concerned rejected the bail prayer of the appellant.

3. Mr. Brij Nandad Prasad, learned counsel for the appellant submits that the appellant is facing trial, as a child in conflict with law in the Children court and he has been under observation in remand home since 06.05.2023 and the FIR clearly shows that there was a love affair in between the informant (victim of the present matter) and the appellant.



Learned counsel further submits that the appellant has not remained involve in any crime in the past and his trial has started and the learned trial court rejected the appellant's bail prayer mainly on the ground of seriousness of the alleged offence which is not proper in the light of provisions of section 12 of the Juvenile Justice (Care and Protection of Children) Act. Learned counsel further submits that the appellant is willing to get education.

4. Mr. Bal Mukund Prasad Sinha, learned APP for the State has opposed the bail prayer of the appellant.

5. Considering the facts and circumstances of this case as well as the above submissions and mainly the nature of allegation, and also, the facts that the appellant has spent sufficient period/amount of time in protective custody and he has not remained involve in any criminal activity in the past and his trial has started and the learned trial court has rejected his bail prayer mainly on the ground of seriousness of the alleged occurrence which is not proper, in my opinion, the appellant deserves to be released on bail from the Remand 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-I-cum-Children Court, Banka in connection with G.R. No. 1485/2023 arising out of Dhoraiya P.S.



Case No. 118/2023 , **on the following conditions :-**

(i) One of the bailors shall be father/mother of the appellant, who shall file his/her undertaking before the learned trial court at the time of furnishing of bail bond to this effect that he/she shall take care of the appellant after his release during trial and get the appellant admitted in school/college for his further education and if, appellant’s further involvement in any criminal matter subsequent to the commission of the present matter is found then the learned trial court shall take serious action against him by cancelling his bail bond.

(ii) After the gap of every six months during trial period, the learned trial court shall call for a report from the concerned regarding the educational development of the appellant and if any contrary to his educational development is found then the learned trial court shall take serious action against him by cancelling his bail bond.

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

(Shailendra Singh, J)

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