

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.1372 of 2024

Arising Out of PS. Case No.-181 Year-2021 Thana- SIKANDRA District- Jamui

Nitish Yadav @ Nitish Kumar @ Nitish Kumar Yadav Kumar, C I C L X son
of Ram Yadav Village- Dhankurba Ps- Sikandra Dist- Jamui

... .. Appellant/s

Versus

The State of Bihar Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Umesh Prasad

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

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

ORAL ORDER

4 16-05-2024 Heard learned counsel for the appellants and learned
APP for the State.

2. This criminal appeal has been preferred against the order dated 06.02.2024 passed by the Additional Sessions Judge-I, Jamui-cum-Spl. Judge, Jamui in connection with Children Case Case No. 03 of 2023 arising out of Sikandra P.S. Case No. 181 of 2021 registered for the offences under Section 302/34 of Indian Penal Code and under Section 27 of the Arms Act whereby the learned court below has rejected the prayer for regular bail of the appellants.

3. As per prosecution case, the appellant and other co-accused persons indiscriminately fired on brother of the informant who suffered injuries in hand and stomach and he died on the spot.

4. Learned senior counsel for the appellant, assailing the order of the learned court below, submits that it is admitted fact that the appellant is a juvenile and in the case of a juvenile, the



gravity of the offence cannot be looked into, while considering bail. There is mandatory provision for grant of bail to a juvenile as per Section 12 of the Juvenile Justice (Care and Protection of Children) Act. The three grounds for rejection of the bail have been given in the proviso of Section 12 of Juvenile Justice (Care and Protection of Children) Act. Any of the grounds on which the bail may be refused, is not present in the present case. He submitted further that the appellant is under custody since 10.08.2023 and co-accused persons of this case has been murdered. He submitted further that in Social Investigation Report, nothing adverse has been reported against the appellant.

5. On the other hand, the learned APP for the State has opposed the prayer for bail and submitted that it is true that the gravity of the offence in a case of juvenile, while considering his bail, cannot be looked into but the appellant should at least explain the delay of two and a half years of his absconding from the process of law.

6. The Social Investigation Report of the District Probation Officer is available with the record which shows that there is nothing adverse against the appellant. There is no possibility of his moral, physical or psychological danger, if he is released on bail. There is also no possibility of being the appellant in contact with the association of the known criminals had he been



released on bail.

7. Considering the above-mentioned facts and circumstances, this criminal appeal is allowed and the order dated 06.02.2024 passed by the learned Additional Sessions Judge-I, Jamui-cum-Spl. Judge, Jamui in connection with Children Case Case No. 03 of 2023 arising out of Sikandra P.S. Case No. 181 of 2021 is set aside.

8. Let the appellant, who has already been declared juvenile by the learned Juvenile Justice Board, be released in favour of his parents on execution of surety bond of Rs. 10,000/- (ten thousand) to the satisfaction of learned Additional Sessions Judge-I, Jamui-cum-Spl. Judge, Jamui in connection with Children Case Case No. 03 of 2023 arising out of Sikandra P.S. Case No. 181 of 2021 with the condition that the father of appellant, shall furnish an undertaking that after release on bail, he will not allow the appellant to come in 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)

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